

STAFFORD COUNTY PLANNING COMMISSION

January 6, 2010

The work session of the Stafford County Planning Commission of Wednesday, January 6, 2010, was called to order at 5:34 p.m. by Chairman Peter Fields in the Board of Supervisors Chambers of the County Administrative Center.

MEMBERS PRESENT: Hazard, Rhodes, Hirons, Howard, Fields, Kirkman and Mitchell

MEMBERS ABSENT: None

STAFF PRESENT: Harvey, Roberts, Stinnette, Zuraf, Stepowany, Hornung, Baral, Hess and deLamorton

DECLARATIONS OF DISQUALIFICATION

Mr. Fields: I would like to welcome the two new members to the Planning Commission. I look forward to working with you guys over the next two years. Just for the sake of everybody here and out there, do you want to introduce yourselves?

Mrs. Hazard: My name is Holly Hazard. I live in the Hartwood District. I have lived here since 2001. I am a local attorney. I do real estate corporate law and things like that. And I am pleased to be here and ready to learn.

Mr. Fields: Welcome aboard.

Mr. Hirons: I am Scott Hirons. I am from the Falmouth District. I have been here in the County for five or six years now, I guess. I grew up here in the area as well. Professionally I kind of do a number of things; I guess right now I am leaning back more towards IT Project Management.

Mr. Fields: Very good. Welcome aboard, both of you. I look forward to getting to know you and working with you on the Planning Commission. First meetings are, am sure, always a little daunting. We hit the ground running. Obviously everything is just a work in progress; we don't get a chance to push the reset button when we have new appointees. So, as far as I am concerned, feel free to take as much time as you need to ask any many questions as you like. Do not feel in any way that just because the rest of us here are carrying over items that we have been discussing, that in any way you are expected to be... obviously there is no way you could be up to speed like we are. But, I want you to know also, that you should feel free to ask questions and back fill and don't feel like you are holding us up. The work of the Planning Commission is deliberative and advisory primarily and so our job, and I think most of my colleagues would agree, our job is to look at a great deal more depth on a lot of these issues than the members of the Board of Supervisors have the opportunity or the time to and give them our best opinion at it. So, to do that, our process here involves asking a lot of questions and really drilling down to the meat of an issue so we really understand it. And, with that sort of in mind, are there any declarations of disqualifications here for the work session? Alright. So, with that in mind, in the spirit of really trying to get a handle on things, we come to the Reservoir Protection Overlay District. I understand we have a presentation from the Cooperative Extension available today. Do you want to say something first, Jamie, to kind of get us going?

REVIEW OF PROPOSED ORDINANCES

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1. Reservoir Protection Overlay District (**Time Limit: January 29, 2010**)

Mr. Stepowany: Thank you, Mr. Chairman, and again, welcome to the new Planning Commissioners. My name is Jamie Stepowany. I am a Planner and I have been the project manager for the first item, which is the Reservoir Protection Overlay District. For the two new members, we will briefly... there are two existing reservoirs and proposed Rocky Pen Run Reservoir, and this is an overlay district which would be placed on the watersheds of the three reservoirs. And it takes up approximately fifty percent of the western side of 95 when you get to the three watersheds. And that is a rough estimate, but if you were able to get the packages, there is a map that shows the overall reservoir. It has been in discussion for four years now by the Planning Commission. It has gone to a public hearing with the Planning Commission. And the Planning Commission had numerous citizens raise concerns and issues and we have been working off a list of about twelve questions. We are down to just finalizing a couple of questions and, in response to the other questions that the Planning Commission has recommended modifications, there is the updated ordinance showing those recommendations that address the other questions. That is also part of the staff report for tonight. If I can have the computer please, I will go briefly into what the updated versions are. Computer please. As was explained, there has been some outstanding questions, and one of them deals with farm animals and manure disposal to be regulated. We do have Mr. Howe of the Virginia Extension Office sitting behind me who has been asked by the Planning Commission to speak on that. He will also talk about animal units. There were some questions raised by the public to implement animal units. Ms. Kirkman raised, at a previous meeting, that there was a proposal years ago about having animal unit regulations in the Zoning Ordinance. It was from 2006... we passed that out earlier; the actual proposed ordinance that went to the Ordinance Committee in 2006. It was discussed at one Ordinance Committee and never went any farther than that one and you may see that among the paperwork. It just says Ordinance Review Committee, 2/22/06, Item number 4. That was a previous attempt to try to do an ordinance on animal units. So, before I get to Mr. Howe, there were still questions on how many properties had drainfields on public water will require back-up systems because that was another regulation that has been discussed by the Planning Commission. And, I just want to go over the maps real quickly that were sent to you. There are three different reservoirs and the bold red line is the outline of the reservoir, the 200 foot buffer zone and the 1,800 foot proximity zone. And on the maps the yellow properties are the customers for the Utilities Department that are on public water but have no sewer. And the green properties are the vacant properties that would have public water and would not have access to sewer. And just for clarification, you may see properties in the middle; those are existing houses that are not hooked up to water. They are not customers of water, so they are obviously on well and drainfields. This is the Rocky Pen Run; there are only a couple lots, only a couple green lots that are vacant and a couple yellow lots that are borderline that again are on water... they are occupied properties. And then this is the Abel Lake Reservoir. The yellows are occupied properties that again have water, no sewer, and the green properties are the vacant properties which would be the properties subject to it. There are additional modifications; they are subject to this regulation if they need a pump to pump the effluent to the drainfield. If it's all gravity flow, then obviously they wouldn't need the back-up system. There is no way for staff to determine if they are going to need a pump or not because that is based on the topography and where the drainfield is located in relationship to the house. So we could not provide that information. So, I am now going to ask Mr. Howe to come up and speak to you on the questions that he was asked, and then we will be more than happy to take any questions from the Planning Commission. Thank you.

Mr. Fields: Thank you Jamie.

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John Howe: Good evening Mr. Chairman and members of the Planning Commission. I'm John Howe. I'm the Extension Agent, Animal Science, from Spotsylvania County, but I am a resident of Stafford County in the Falmouth district. I don't know that that really matters here other than I am speaking in my home County where I live. You are going to find as you read the material I supplied that there is no standard definition for animal unit. There is a range or cluster of fairly common, unique or uniform, or fairly uniformed, definitions but no standard one. The animal industry uses animal units as a major to largely determined grazing capacity in pasture operations. And it's based really on the amount of food or feed that an animal will consume. Typically, animals will consume about two percent of their body weight in dry matter. Dry matter simply is if you take feed and you put it in an oven and you bake off all the water, what you have left is dry matter. Hay will have maybe eighty-five percent dry matter. You take and put that same grass before it becomes hay and it's grass, it might have only thirty percent dry matter. So, there is a difference in there. But in the end, a cow, a horse, a sheep and so forth can only consume about two percent of their body weight in dry matter. So that is how we use it in evaluating grazing situations. There are methods to calculate how much dry matter there are or is out in a pasture area. And, through experience, we can pretty well determine the number of animals that could be carried on a given grazing area over a given period of time. It's an industry type standard; it's used by people to determine how many animals they can graze. So, given that, I can't tell you that one animal unit equals this or that. Typically, an animal unit is based on a mature cow. Now, the weights of those mature cows can vary in these definitions from 1,000 pounds to maybe about 1,300 pounds. To further complicate it, some people use a cow plus a calf. And, of course, if you have a cow plus a calf, then that cow has to consume enough dry matter to support the calf. So, if you are looking at a cow plus a calf, it's going to take more acres than just the cow herself. What can a cow weigh? A typical beef cow will weigh anywhere from 900 pounds to maybe 1,400 pounds, depending on the breed. And, obviously, a 1,400 pound cow is going to take more food and require more grazing area than a 1,000 pound cow. So, it's really difficult in some respects to say "well, an animal unit is this". Most of your definitions for an animal unit will include a weight of maybe 1,000 or 1,100 pound cow and then plus a calf or maybe not a calf. It depends on what resource you choose to use. I favor not including a calf because that makes the calculations a little bit more complex. But there are ways to take a look at that. But, generally speaking, an animal unit in my view would be a 1,000 pound or 1,100 pound cow. That is not responsible for managing or caring for the cost in terms of food consumption for a calf. Now, life is never simple, you know, so there are a number of factors that can affect how much pasture area is needed to support an animal unit. And it doesn't matter how you define an animal unit; these are things that happen. The size or area that is available is important and it is much easier to manage fifty or one hundred acres of pasture area than it is five acres of pasture area. It is also important to remember that from the professional perspective, an animal unit is really talking about the grazing area available to an animal, not the lot size. You could have a five acre lot and you have a house site, a barn site, some woodland, and you are not going to end up with five acres of grazing land; you might only have three, maybe only two. So, we are really talking in some terms of the amount of grazing lands rather than the gross size of your parcel. Soil class. We have good soils in Stafford County and we have not so good soils in Stafford County. And the soil is the underpinning structure for the plants' ability to grow, for the soils ability to hold nutrients and moisture and help the grass grow. So there is a difference between areas within the County as to how much it would support. How the farmer or owner manages that pasture is important as well. If you have ever read my newspaper articles, they are written on lawns often, but one of the guiding lights that we have is soil testing. Soil testing tells us the soil ph and whether or not we need to add lime to correct that soil ph. It's important to have the proper ph in pastures because that makes the phosphorus and potash put on the pastures more highly available. So do a soil test; the owner should be doing that. They should be doing a phosphorus and potash to achieve a high level of those nutrients in the soil and then they should apply nitrogen as recommended. Nitrogen does not stick

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around in the soil; it leaves. It is a very fleeting nutrient, so there are good times of the year and bad times of the year to apply nitrogen. And times maybe when you don't even need nitrogen in some situations. Controlling weeds, managing pastures to allow for regrowth of the leaf area, and that would be principally rotation grazing where somebody has their farm divided into paddocks and you graze those paddocks sequentially. We recommend the use of sacrifice areas, particularly in small unit operations that are often typical of horses and these sacrifice areas would be where it's a hardened surface and it's designated and we don't expect any forage to be growing there and we would just feed the horses or cows there during inclement weather or maybe during drought periods when there is no pasture available. And then all farmers should, particularly in these small acreage units, assume that they must provide alternate forage sources such as hay at certain times of the year. So that brings me down to well how much or how many acres do you need per animal unit. And I am going to emphasize in my view it's acres per animal unit, not animal units per acre but acres per animal unit. And, for the most part, I would say that you are really talking somewhere between two and three acres of grazing land per animal unit. Under well managed conditions, you can squeeze that down to sometimes an acre but two to three acres would be more typical under kind of average management. Manure. That's always a touchy subject. It's part of the animal industry and anybody who has livestock needs to be able to deal with that, particularly if the animals are housed or stabled during parts of the season. That manure plus the bedding should be stockpiled somewhere until the season is right to spread it on the land rather than just trying to spread it out every day. And what would be acceptable for stacking of manure or storage of manure? People use anything from just kind of putting it out in a stack on the side of the property to designated areas with hardened pans and maybe concrete walls or wood walls to covered facilities. All those designated stacking areas with concrete walls or wood walls or covered facilities are the more ideal situation. These manure stacks can be a source of run-off for pollution in our areas. I provided you with some detail about how much waste an animal might create during a year; those figures are a bit daunting. There are some techniques and methods that farmers can use. Horse farmers, particularly, in a pasturing situation, will harrow or chain harrow the pasture areas to knock down the manure stacks and help spread out the manure. And, of course, in a pasture situation, you wouldn't be storing manure but it is distributed by our livestock. And that manure does have value. As animals consume plant material, they consume nitrogen, phosphorus and potash which then are returned in the manure and the manure then is a valuable source of fertilizer. And when properly utilized and reapplied to the land recycles those nutrients. An ideal livestock system almost could be a closed system of recycling phosphorus and potash. The animal does consume parts of that phosphorus and potash as they grow and if an animal leaves the property, of course, those nutrients leave with that animal. But a well maintained area can rely very heavily on the self-produced manures for their nutrient level and needs. I know we are talking about watersheds tonight. So, I would be amiss not to talk to you a little bit about watersheds. What can farmers do, or landowners do, to help reduce the amount of sediments and nutrients from flowing into the watershed? They can exclude streams with fencing. And, of course, the greater distance between the fence and the stream line, the greater the impact of that will be. But if you exclude animals from the streams, they are not in the stream depositing manure and urine right into the streams and it then has to cross the land to get to the stream. Oftentimes pastures are divided by a stream or the stream is the only source of water. And you can use hardened stream crossings or access areas to help encourage cows to move quickly across the stream and not to loiter in that. And typically those could be as narrow as six feet wide and that does really encourage the animals to keep moving on rather than stand there and lollygag around in the water. And then buffer strips. And that is simply an area between the stream and the pasture that is planted with specific types of plants that help filter sediment and nutrients out of the run-off before it reaches the streams. That takes us to about page 4 and from then on it is simply a series of definitions about animal units. And I had some information about confined feeding operations as well. And then, last but not least, is this one page document and it's sort of a basic

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primer on pasture management and how it might work. It, in a nutshell, really addresses volumes of information available to us in the industry. But it's a good guide there. With that, I would be delighted to entertain any questions from the Planning Commission.

Mr. Fields: Alright, any questions for Mr. Howe? Yes, Mr. Howard.

Mr. Howard: Mr. Howe, thank you. Just for clarity in my own mind, if we went back to the units of measure, you are saying an animal unit of measure basically is 1,000 pounds in this scenario?

Mr. Howe: I favor, yes. I favor 1,000 or 1,100 pound cow without a calf.

Mr. Howard: So, you would say that it's pounds. And I don't really have any other reason than to just trying to understand the table in asking these questions. So, a bull 1.3 would be that 1,300 pounds, approximately?

Mr. Howe: Yes.

Mr. Howard: Okay. So, when you get down to the chickens and there are seventy-five layers of breeders, seventy-five of those layers actually equal one animal unit, right? I'm on page 5.

Mr. Howe: You're on page 5. Yes. And that can't be simply by weight.

Mr. Howard: Yeah, I understand. There's no way; the chickens would have to be over ten pounds which is not possible, unless there's a lot of eggs in those chickens, right?

Mr. Howe: Right.

Mr. Howard: That's seventy-five chickens. But this is also for the purposes of at some point there has been some calculation I guess that also takes into account what these types of animals, their intake would be, and their output as well in the dry matter and that type of thing.

Mr. Howe: Right.

Mr. Howard: Alright, I got that. That was good. And you mentioned acres per unit and you said that's the, in your opinion, the more favorable way to look at this. And then two to three acres per unit of measure which one equals 1,000 which equals really one animal except when you get into it looks like everything except the chickens and turkeys perhaps. So, is that fair to say that?

Mr. Howe: Well, I would say that horses, and we have a number of horses in the County, that a typical mature horse is 1.3 animal units.

Mr. Howard: Right. So that would exceed the one.

Mr. Howe: Right.

Mr. Howard: Okay. So you would have less horses but you certainly could have a horse because it's 1.3.

Mr. Howe: Right.

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Mr. Howard: Okay, I got that. You also mentioned the grazing areas and that was two to three acres per unit of measure.

Mr. Howe: Right.

Mr. Howard: What is the length of time for a grazing area to sort of regenerate?

Mr. Howe: That is going to depend on the growing...

Mr. Howard: Average. I know it will depend on the soil, you mentioned the soil.

Mr. Howe: Yes. But typically we plan on maybe six to eight weeks between grazing events.

Mr. Howard: So, a farmer could subsidize, or supplement I should say, the grazing area with hay and other dry matter, right?

Mr. Howe: Yes.

Mr. Howard: And is there any of that in your calculations, because the time of year will matter as well.

Mr. Howe: Yes. There is none of that in the calculation.

Mr. Howard: Okay. I think that was all the questions I had. Thank you.

Mr. Howe: You're welcome.

Mr. Fields: Any questions? Ms. Kirkman?

Ms. Kirkman: The context for this discussion was in a discussion of measures to protect water quality and the issue that was raised to the Commission was that it is typically not the large operations where you see issues of overgrazing but the much smaller lots, particularly when we have nonconforming agricultural lots of one acre, two acres. And I'm wondering what comment would you have about what you would say given that our agricultural lots often also have houses and outbuildings on them. So, what would be the minimum size you would need for any number of animals... livestock animals?

Mr. Howe: You know, that's a difficult question. My thinking here is that if you just have one acre and you've got a house on it and a garage and a driveway, you really don't have a lot of space there for livestock production. That would not exclude somebody from having a half a dozen chickens for home use, but that area would be hard-pressed to support a goat, a cow or a horse. So, there is, in my mind, some sort of a breaking point there that you might not want to have people with a one acre lot having sheep, cows and so forth. My mind would say you would probably want at least a three acre lot before you had livestock on it. And by livestock I'm talking about cattle, horses, sheep and so forth. That is my kind of gut feel. My professional experience, I see far more problems in terms of pasture management on the small acre parcels than I do on large acre parcels. If you just did the math it's a whole lot easier to, and we'll just say you are using two acres per animal unit, it's a whole lot easier to have twenty-five animals on fifty acres where you have the option of rotational grazing and resting and so forth than it is to try to do that on two acres. You could do it in four quarter acre paddocks... or

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four half acre paddocks, excuse me... but there is not guarantee, particularly in the droughting period of the summer, that you are going to have any grazing available at all.

Ms. Kirkman: And when you say three acres, is that inclusive or exclusive of the area for the primary residence?

Mr. Howe: Where I was coming up with that is, it runs in my mind when you use farm use taxation, so you have a parcel of land and one acre and a house is taxed at one rate and the rest of it is taxed at a different rate. I am pulling kind of that from there. I am assuming in all lots like that that you are going to have an area for the house, a driveway, a barn, a yard and so forth. And no lot, or very few lots, is perfect in terms of not having some waste area.

Ms. Kirkman: Thank you.

Mr. Fields: Are there any other questions? I was interested in your observations about the manure storage issue. I think that was another issue that was raised considerably. Certainly, what you're saying, as in a lot of things, you are certainly saying that obviously maximizing the use of manure as a way of recycling the nutrients certainly creates what we all would say is a desirable sustainable system of agriculture. But also to use that properly requires the storage and application under the proper seasonal conditions. What, in your observation, would be the types or approaches to the manure storage that would minimize or even eliminate potential for negative nutrient runoff?

Mr. Howe: Well, first would be, I think, the site. If you put a manure stack next to a creek, it's more likely to have runoff than one in an area where the topography and stuff doesn't lend itself for immediate flow into a creek or waterway. So, siting would be one. Structure. We'll just go from the worst to what I would say would be the best. Just simply taking it and stacking it somewhere without any preparation at all is the easiest method in some respects. The next method would be to design an area that might have a hardened surface for the stack. You could add a backer wall to that which would allow you a larger amount of material there. And then, to take another step, you could use covered facilities. I'm not really aware of many covered facilities around but I am aware of hardened surface areas where some of the horse owners that I know have actually three or four bins where they store that manure. And they actually do a composting operation with that.

Mr. Fields: By hardened, do you mean in terms of it being impervious or in terms of it being structurally hardened to accept a deeper, higher stack in terms of (inaudible)?

Mr. Howe: I'm thinking more in terms of a structural type hardening where you might have a number 4 stone layer and then a layer of sifted lime dust or something like that.

Mr. Fields: How much manure... forgive me for not completely understanding this... if you have, let's say, a stack of manure that is on a hardened surface, maybe even a prepared concrete surface or something, when stormwater falls on the stack, how much of that can be absorbed generally by the manure and how much is going to end up running off as stormwater runoff?

Mr. Howe: Well, I don't have the answer to that, Mr. Chairman.

Ms. Kirkman: Rishi would have the answer.

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Mr. Fields: Oh, I know Rishi would have the answer to that; he has the answer to everything. In general, I guess, is manure highly absorptive of water?

Mr. Howe: In those manure stacks, you are going to have not only the manure produced by the animal, but the bedding material, sawdust, shavings and straw, so that would be absorptive.

Mr. Fields: Okay. The bigger risk, I think, is flowing across the stack. Huge rain events where there is a lot of downfall in a short period of time where the stack just can't absorb it.

Mr. Fields: Sure. But, in general, if you were on a surface that by topography and proximity was relatively as far away from your streams on your property and not just already on a steep slope, one could assume that even if it wasn't always covered that the rain would fall and generally stay within the vicinity of the manure stack and not in general just run willy-nilly into the stream?

Mr. Howe: I think that's a fair observation. The other issue there would be is there sod surrounding that area as sod would help mitigate that problem as well.

Mr. Fields: What have you seen in terms of existing regulations regarding that in Virginia? Do you have any sense of that; what people have done or not done across the Commonwealth?

Mr. Howe: I have seen very few regulations on that. From my perspective, I am an educator and I would prefer educating the horse owners and the livestock owners on manure management and pasture management, as opposed to having a set of regulations drafted that while they may be well-intended and they may cover some of the essential parts, there are always exceptions that might not fit into those rules and regulations. So, my preference would be education as opposed to fine tuning regulations in terms of manure storage and so forth. I do have a concern about population density of animals, particularly on small parcels.

Mr. Fields: I'm sure on many aspects, not just on the welfare of the animals and the liability of the operation.

Mr. Howe: Yes.

Mr. Fields: Are there any other questions for Mr. Howe from staff? Mr. Howard?

Mr. Howard: Along the same lines as the Chairman was just asking, the recommendation... and I don't want to misunderstand, that's why I want clarification... when you mentioned the acres per animal unit, that recommendation is not really based on the output of the animal, whether it's manure or dry matter, it was more based on the grazing and the ability to feed the animal, I think. Is that correct?

Mr. Howe: Correct, yes. My experience, and statewide experience, would tell us the typical grazing operation probably is two to three acres per animal unit.

Mr. Howard: Right. Okay, thank you.

Ms. Kirkman: Recognizing your preference for education over regulation I guess I would like to know if you personally would be comfortable knowing there is a manure stack within 100 feet of a surface water source of drinking water?

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Mr. Howe: I don't know that I would have a big problem with that if it was properly managed. But I noticed on the reservoir overlays and so forth you did have what, an 1,800 foot setback?

Mr. Fields: Yes, the Proximity Zone.

Mr. Howe: Yeah, and you might look at those zones differently than something else.

Mr. Fields: Than something farther out, you mean?

Mr. Howe: Yes.

Mr. Fields: Okay. I think one of the concerns, a very important and valid concern, expressed in the public hearing is, I think, as I am sure you have been explained by staff as you are trying to unravel this is we don't in any way want this to impinge on the ability of people to farm on whatever level they choose to farm. I think we all see that, in a County like Stafford with a constant development pressure and dwindling returns on agricultural activities, there is every incentive to just walk away from the farm on many fronts and I know personally, and I think collectively, our response was that none of us wanted to see that happen. We want to see that people that are actively engaged in agriculture have continued to do so unimpeded by unnecessary regulations. But, obviously, if you have a drinking water supply, you have some compatibility, use challenges, they don't have to be prohibitions but obviously you have to be a little more careful about certain things if you are talking about a water supply immediately downhill from the farm, if you have the County's water supply versus a stream that goes through the wilderness. So, I hope you have understood that that's the context we are trying to get at. And I am sure this must work in other places.

Mr. Howe: Oh, yes. Where I grew up in Pennsylvania, there was a very active dairy farm just up the road from the main water reservoir for the town.

Mr. Fields: Never a problem.

Mr. Howe: Not that I'm aware of. Of course, I'm a little old you know.

Mr. Fields: Mr. Howard, do you still have another question?

Mr. Howard: I'm good.

Mr. Fields: Okay. Ms. Kirkman? Mr. Rhodes? Anybody? Alright, thank you very much Mr. Howe.

Mr. Howe: I would be delighted to come back and help you in any way that I can.

Mr. Fields: I truly appreciate that. Obviously, we are trying to get our heads around this and we want to do the best job that we can. And we certainly appreciate your and the Extension's effort in helping us do so.

Mr. Howe: We're delighted.

Mr. Fields: Thank you.

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Mr. Howe: Thank you for the time and opportunity to speak to this group.

Mr. Fields: Our pleasure. Alright. So, we've taken care of that which was, and correct me if I am wrong, was that the last sort of outstanding piece of information that we needed? Had we resolved most of that or are we still...

Mr. Rhodes: Mr. Chairman? I apologize to all my fellow Commissioners on the tardiness. I don't know if it's already been addressed but had we gotten to the item number 6 dealing with the language? Did we have the County Attorney look at it to make sure (inaudible)?

Mr. Fields: We have not discussed that yet.

Mr. Rhodes: Okay.

Mrs. Roberts: Yes, the Board package actually was typed up today. I have not reviewed it. I am hoping to review it tomorrow so it should go to the Board to be referred down to the Planning Commission at the first meeting in February.

Mr. Fields: I guess your question is that until that Code is changed, do we have a problem if this should happen in the interim? Not that it would, but...

Mr. Rhodes: The last time we had just talked about seeing if there wasn't something else that needed to be done to address that dynamic that was uncovered at our last meeting there for number 6.

Mr. Fields: Okay, so we're addressing that...

Mrs. Roberts: Correct.

Mr. Fields: So we will look at that and then they'll look at it. Okay. Have we completely resolved the concept of the 200 foot buffer versus 100 foot buffer versus 121.7 foot buffer or 173 foot? I mean, we had quite a bit of information on that at the last meeting but I don't know that collectively have we come to any definitive?

Mr. Howard: That's a good question. I think some of us, myself included, were questioning why wouldn't we follow the State Codes on that?

Mr. Rhodes: The Ches Bay. Where I felt we left it, Mr. Chairman, was we did talk about making sure we at least properly acknowledged how we got there or the intent behind in the write-up. I know I personally still was not necessarily comfortable with it but I thought collectively there was enough general understanding as to at least we discussed it and could put some preface, if you would, in the language to address it that they were going to go forward. I think, given well intended but given still the lack of tremendously scientific anything, I certainly would default toward the Ches Bay but I wouldn't follow my sword over the issue either. But I think that's the most easily identified; it's recognized, it's codified and so I think that's the strongest point of basis to go, but certainly if the will of the majority were to, I wouldn't drag this on any further for that one item.

Mr. Fields: Well, playing sort of devil's advocate for the argument, I would say that the Chesapeake Bay standard of 100 foot has certainly become the accepted standard. But I would also say that as we are approaching the application of TNDL's by the EPA, I would also say the application of the 100

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foot buffer has not done anything to clean up the Chesapeake Bay. So I think that might be the standard but I'm not sure that the Ches Bay Act, believe it or not despite all of the controversy surrounding it, I'm not sure that it's done what it needed to do. The greatest change, reporting when I was on the Rappahannock River Basin Commission... I wish I had the numbers memorized... Taylo Murphy, former Delegate and former Secretary of Natural Resources, always had a great speech. He was from the Northern Neck and he gave a speech when he first came into the House of Delegates and left twenty years later about the number of oyster facilities, the number of crab facilities that existed down in the 99th Delegate District that he represented. And I can tell you that in twenty years, the volume of the catch and the number of people making a living from the Bay had dwindled to just one-tenth of where it was twenty years ago. It's staggering, and I think as many people rightfully pointed out, the salient change to the Chesapeake Bay watershed it certainly, in this part of the world over that time, was not in terms of agricultural or industrial output, it was in terms of the built-in increase and the built-in environment. So, I know what you are saying that 100 foot seems to be a very accepted norm, but I would still contend that a 200 foot, probably when it comes to these very specified areas, is not unreasonable, as long as it can be applied.

Mr. Stepowany: Mr. Chairman, just for the Planning Commission's purpose, we've modified the ordinance that has been presented to you and the preamble was added as requested by you at the last meeting, "whereas, the County has considered some of the recommendations set forth in the model surface water ordinance by the EPA which was presented to you, including the 200 foot wide buffer zone adjacent to the reservoir." Yes, it was not the science but I believe one of the directions that the Planning Commission gave was to try to explain where that came from. So, that's in the preamble and we have also added the purpose of the overlay 2 and 3 to say we need area to do such a thing. And to help clarify or justify why the 200 foot is taken and not other measurements. So that was as explained in the comment. The changes to this ordinance to address that concern raised by the Planning Commission were those two items.

Mr. Fields: Okay.

Ms. Kirkman: Mr. Chair, what I would add a little more succinctly is that the Ches Bay buffer is designed, once the pollutants enter the stream after they cross that 100 foot barrier, they've still got miles to go before they hit the Ches Bay. And there are some diluting and filtering process that happens. But that is different than when being literally 100 yards away from the water source.

Mr. Fields: That's a very good point Ms. Kirkman. Alright, so, where are we with this? Do we need to absorb the presentation from Mr. Howe and decide how we want to craft the language regarding some of these agricultural issues?

Ms. Kirkman: Mr. Chair? Had we, and perhaps staff could... I thought this had already been set for advertisement because we have to hear it at our next meeting?

Mr. Harvey: No it hasn't. What we were hoping to do was get the Commission's recommendation to send back to the Board so they could determine whether they wanted to refer it again for another public hearing.

Ms. Kirkman: Wasn't there a vote at the last Commission meeting on this?

Mr. Stepowany: That vote was to prepare it in the version that the Planning Commission would like and send it to the Board for recommendation. That was what Mr. Harvey said.

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Ms. Kirkman: And they did not rule on that... they did not get that last night?

Mr. Harvey: This issue was not discussed last night.

Mr. Howard: I think the vote was to direct staff to prepare the document for our meeting today so that we could put it more in the format where we could vote whether we were going to recommend this or not recommend it. That's my recollection; is that correct or not correct? So, staff was to get us some additional experts, which they did, and then there were the wording changes that Mr. Stepowany just went through adding, I guess, 2 and 3 to the ordinance. Isn't that correct? Because that was the general language that Mr. Rhodes had mentioned just a few minutes ago.

Mr. Stepowany: Correct. There were numerous changes that the Planning Commission asked staff to correct and those have been done. And, as I said, from what Mr. Harvey says the recommendation was to send the revised version back to the Board without having another public hearing, and to get recommendation from the Board as to whether this is to go back to public hearing or not by the Planning Commission. That was the last recommendation, and not to send it to public hearing and then send a new recommendation at the public hearing. The public hearing would have to have been done by the next meeting.

Mr. Fields: So, according to that vote then, this document is going to go to the Board?

Mr. Stepowany: That's what we presented to you tonight is the document with the revised changes based on our last discussions not including Mr. Howe's issues and to forward it to the Board for additional considerations and recommendations. That is what is in front of you right now.

Mr. Fields: Okay.

Ms. Kirkman: Do we have a draft of the minutes yet from the last meeting?

Mr. Harvey: We're still not in the process of preparing those yet; we are behind.

Mr. Howard: So, I guess what we're just trying to understand is what are we supposed to do right now.

Mr. Fields: Yeah, I mean, have we already voted to send this to the Board?

Mr. Howard: Jamie, is your recollection that is what we did? Because I thought it was the latter of what you said but which is not really what you said, if that makes sense.

Mr. Fields: Yeah, do we need to revote what we just voted on?

Mr. Howard: We probably should just for the sake of...

Mr. Fields: Okay, that's fine. I wasn't sure whether we were just commenting on a done action or reaffirming what we were talking about. Given Mr. Howe's comments, are there any... I'm sort of looking and I'm not seeing that we have anything in the ordinance as presented but please correct me if I'm wrong. I want to make sure that we... is there anything to his comments anybody feels needs to be included or excluded from the document? Other than that, we should have gotten all of this stuff

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worked out, I believe. It seems to be everybody's collective understanding of this. There is a lot of material. I have not been seeing anything that attempts to regulate or prohibits any of these things. We are going to rely on Mr. Howe and his colleagues in the Extension Service to educate people on this proffer thing.

Mr. Harvey: Mr. Chairman, looking back through the ordinance the one question that's out there is some of the prohibited uses are listed as feedlots. And I know that was one of the discussions that was held at the public hearing is what is a feedlot and how is it to be managed, how many animals constitute a feedlot. And that was part of the reason for the discussion from Mr. Howe was to give us some more idea about animal units and how that would fit in with the overall process.

Mr. Fields: But don't we have a definition of feedlot in the Code? We were discussing animal units primarily in the term of combined pasturing operations versus... a feedlot, right, is a confined feeding operation, right? Is that correct Mr. Howe? Please feel free to interject if we're drifting a hopeless urban matter off of agricultural issues.

Mr. Howe: No, I don't think you are drifting. I am assuming they are discussing... I just want to make sure I am commenting on the right thing, Mr. Chairman. I looked at your definition of a feedlot and, in fact, I included some information at the end of mine on confined feeding operations which would be the same thing as a feedlot. And, essentially, your definition of a feedlot follows that definition in terms of animals and so forth. A feedlot, I would say, is generally a defined area where you don't expect any vegetative matter to be growing so that the animals in that area would be solely reliant on feed provided by the owner. So, it could be a dirt lot or it could be a concrete lot, but it would still be a lot where you weren't depending on any grazing materials to provide any nutrition for the animals. So I think your definition is fair. It's pretty consistent with some of the thresholds for some permitting activities by the Department of DEQ. And that's Virginia's DEQ.

Mr. Fields: And feedlots are regulated by DEQ?

Mr. Howe: Not necessarily regulated by DEQ but if there are complaints about them, the DEQ can step in and require permitting, maybe mitigation.

Mr. Fields: Do you think prohibiting feedlots... because this prohibits in reservoir, buffer, proximity and watershed zones, so we are talking about a pretty large area. How does that strike you? I mean, is that something that strikes you as congruent with the intent of the proposed ordinance?

Mr. Howe: Yes. The big issue with feedlots is what do you do with waste that's created? If you have a feedlot on five acres and the farmer has no place to dispose of the manure, that's one problem. If it's a feedlot and the farmer has access to adequate land to apply those manures and do it in a proper manner, then I don't think it's a problem. So, it's really a relationship with the size of the feedlot and the area that the farmer might have under his control to use the land to apply the manures. It's not quite as easy as saying well, we will have a feedlot or we won't have a feedlot.

Mr. Fields: I'd like to ask a question of staff or the attorney or the Planning Director. Is it possible under the Code of Virginia to require a CUP for a feedlot in these zones? Would that be somehow solving the problems to some degree? A conditional use permit where these parameters could possibly be addressed? To say no feedlots would somewhat exclude the possibility of a well managed feedlot. To leave it out would include the possibility of a poorly managed feedlot contaminating the water

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supply. So, I'm wondering if there's a way we can review it on a case by case basis. Do you know Mrs. Roberts?

Mrs. Roberts: Not without reviewing any State and Federal regulations governing feedlots, I wouldn't know the answer to that to see if it's taken out of our jurisdiction.

Ms. Kirkman: I'm sorry, Madam Attorney, I don't understand that. If that's the issue then we can't even have it in here at all, right?

Mrs. Roberts: No, not necessarily.

Ms. Kirkman: Because the issue is whether or not we can regulate it as a land use and that would be true whether we are regulating it through the Reservoir Protection Overlay zone or through a conditional use permit. Either way you are regulating it as land use and that's the issue you're raising now; are there other laws that would prevent us from doing that.

Mrs. Roberts: Depending on the extent of those regulations, so, it's a case to case basis. For example, on the propane tanks, there are certain things that I think we could get away with; for example, having outside a certain amount of buffers but not totally disallow them within the area, within the reservoir district. So, without looking at the regulations that are out there concerning feedlots, I can't answer that question.

Ms. Kirkman: I guess what I'm asking is this ordinance that has been under consideration for four years completely prohibits feedlots. Allowing them under a conditional use permit is less restrictive. So, I don't understand; if there are issues with something less restrictive how it's possible for us to do something for the past four years that is more restrictive.

Mrs. Roberts: So you are saying currently the ordinance eliminates feedlots from the reservoir district? Then you are correct. Then if it's allowing them by CUP and it's less restrictive, you are correct.

Mr. Fields: There may be an issue, Ms. Kirkman, just to muddy the waters, particularly there was an act of the General Assembly in 1998 called the Jackson Act that had to do with prohibiting the use of conditional use permits to regulate uses that are permitted by-right in a zoning district. And it had to do with residential. For years, Fauquier County had been using special use permits to regulate residential subdivisions in their agricultural areas. It had been a very logical way of saying you can't put a subdivision here but instead of the by-right issues that we deal with, they required an SUP. The Jackson Act was passed to say that you cannot use a conditional use permit on a type of use that is already permitted by-right in the zoning district. Meaning if you are permitting one house per three acres by-right in the A-1 Zoning District, you can't suddenly put in a special use permit that says if you want to build fifteen houses on 100 acres that you have to have a CUP. They said it's by-right, it's by-right. So, I'm wondering if there would be some applicability on that logic with saying that you can say feedlots are by-right or you can say feedlots are not by-right, but if you permit them by-right in A-1 then you can't apply a CUP to it. I'm just trying to think through the issue. I don't know. That may be a case where it seems like a CUP would be logical and consistent but it isn't necessarily. So, do we need to take that out or leave it in pending a decision? I don't necessarily want that to hold us up moving this forward to the Board of Supervisors. But, anybody have some thoughts? Do we want to pull that out for now and take away the feedlots, or leave in the prohibition against feedlots pending a decision on possibly getting a CUP?

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Mr. Rhodes: Actually, I think the CUP suggestion was intriguing and another, maybe better, way to manage versus a total exclusion. And so it might merit confirming the degree to which that could be controlled in that manner. We have one more session I guess in our time limit until we have to act in some fashion anyways.

Ms. Kirkman: Mr. Chair, isn't the time limit if we don't act by the 29th and if we have not gotten some action by the Board, then it's deemed that the Planning Commission has approved this and sent it to the Board? So, this wasn't sent to us to design it, there's a timeframe in which if we don't act and the Board doesn't take action, then it's deemed that we've approved this.

Mr. Harvey: It's my recollection from the Board meeting that the Board asked for the Planning Commission's recommendations on the ordinance. Since you held a public hearing and it was at their point in time when they were ready to schedule the hearing, they wanted to see what the additional comments the Commission had based on the public commentary at the hearing. So, part of what we are doing here, I'm assuming, is making the recommendations based on the comments that the Commission has heard at the hearing and they are suggesting other alternatives that could be modified to the ordinance that the Board could consider. If another hearing is required, then the Board could refer it back down for another hearing.

Ms. Kirkman: During the break could we get a copy of the Board's resolution sending this to us because I think that will help us figure out what situation we're in. Because we already had a public hearing and we already sent them comments, so there is something that doesn't quite fit. So, if we could, during the break, get a copy of the resolution of the Board sending this to us, that would help.

Mr. Harvey: Sure, we will dig up the information.

Mr. Fields: So, we will hold this until after the break. We'll get clarity and then we will try to... it would be good to make a decision tonight, if possible, if we can do that.

Mr. Howard: Even if we move it along with the recommendation that the feedlots be required or permitted going through the CUP process. But I think the issue is what Mr. Fields indicated could be that maybe we don't have the authority to regulate a feedlot.

Mr. Fields: That's my concern that specifically when you get to agricultural activities, there are layers of state regulations that preempt local authority at times.

Mr. Stepowany: Mr. Chairman, also as Mr. Harvey was saying, at the very beginning of the staff report we do mention that at the September 16th meeting, the Planning Commission forwarded a recommendation of denial to the Board of Supervisors. On October 6th, the Board granted the Planning Commission's request and forwarded the ordinance back to them for further considerations. So, the actual recommendation from the Planning Commission to the Board was deny the ordinance, but based on public input maybe additional modifications could be made and go back to the Board for additional considerations.

Mr. Fields: Okay. Alright then, we'll get that during the break. We've got a few minutes; do we want to look at the Groundwater Management Plan Ordinance?

2. Groundwater Management Plan Ordinance

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Mr. Baral: Mr. Chairman and members of the Planning Commission, the Groundwater Management Plan Ordinance. Groundwater is one of the reliable resources of water for various purposes: water supply, firefighting, as well as irrigation. Proper groundwater management becomes important to make the best use of the resource. The ordinance being presented today is in a draft form, and for effective application, other policies and a detailed policy needs to be formulated. This is only in a draft form at this time, and because this needs a bigger magnitude of work, we need to be clear as to what palm print to use, what are the regulated chemicals or regulated metals in water, and things like that. But, however, what is being presented is a very concise draft of the ordinance. And this is a result of the research of the ordinance in the neighboring counties and it has all the basic requirements of that. But for complete formulation of the ordinance, other policies need to be brought with this also. I would like to make a point on that. According to the directions staff received on December 2nd, staff has provided an initial draft of the ordinance and applicable USGS program to Stafford County. The provided draft ordinance has not been reviewed for legal requirements, which it needs to be also at this time. I would like to make a couple of points also in the ordinance. The ordinance proposes to restrict land use and it not a zoning ordinance. That needs to be discussed also in the beginning. For example, it proposes aquifer recharge zones and certain activities not to be allowed in that zone. And is it good to put that kind of regulation in the groundwater management ordinance or should that be put in the zoning ordinance, those kind of items. Also, it has a regulation on hydro-geologic study. Hydro-geologic study will identify as to what the water resources in that area are and what direction the water is flowing or the capacity of a well could be. Also in the ordinance we need to identify if groundwater is affected by a certain project, what the remedy should be. And this draft concise ordinance does not go into detail to cover for the remedial measures which also becomes important for an ordinance to come to a complete form.

Mr. Fields: Does that conclude your remarks?

Mr. Baral: Actually I have the ordinance with me right now.

Mr. Fields: Do you want to give us highlights or do you want us to ask questions, or does anybody have a question at this point? Ms. Kirkman?

Ms. Kirkman: You ready? I've got a couple.

Mr. Baral: Sure.

Ms. Kirkman: So, in the draft ordinance, the model ordinance that was prepared by the consultants hired by the County, they distinguish between having a groundwater management plan and testing requirements. And depending on what's being proposed, you may only prepare a plan or prepare a plan and do testing. I notice in the draft ordinance that you prepared you do not make that distinction and I was wondering what the thinking was about that.

Mr. Baral: It's relevance to the groundwater management study that was previously prepared.

Ms. Kirkman: By the County's consultants.

Mr. Baral: Oh, yeah. We studied the report prepared by the consultant and the consultant has proposed a model ordinance which is a blank form as to what the purpose of the ordinance should be, what the regulations should be and where a conditional use permit should be applied. It has several options given but which is in a very crude form. But the zones proposed in this ordinance, aquifer

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recharge zone and wellhead protection zone, those are taken from the recommendation of the study that was done by the consultant.

Ms. Kirkman: Right. I understand that but what I'm asking is, the consultant in the model ordinance said there should be a difference between just preparing a plan and requiring testing, and that depending on the proposal that was under consideration you would only do a plan or you would be required to do a plan and testing. And I've noticed in the draft ordinance that you prepared, you do not have that sort of tiered system of plan only or plan and testing.

Mr. Baral: Oh, I believe that would be the detail of hydro-geologic study.

Ms. Kirkman: Okay. Well, this next question may be related to that because I noticed on the hydro-geologic study, you did not list all of the elements that the consultant recommended be included in a study. So, the consultant recommended like thirteen different elements that should be covered in the study and those are not listed out here.

Mr. Baral: The thought process on that is those detailed studies, detailed items, should come with a policy that comes as part of the ordinance. That is what the thought process is.

Ms. Kirkman: But why not list them in this draft ordinance?

Mr. Baral: My thought process to prepare a draft ordinance is if we put all the items we should do on a hydro-geologic study such as what the pump discharge should be, what the yield rate should be, things like that, those could be very detailed items for an ordinance.

Ms. Kirkman: No, but that's not what the consultant recommended. So, what the consultant recommended was broad categories of what should be included in the study and in the groundwater plan. So, it included broad categories of things like topography, land cover and soil characteristics, surface water drainage, property use inventory... those are broad categories. They are not the kind of very small details that you might, for instance, get in a performance manual, which is more what you're speaking of.

Mr. Baral: I agree.

Ms. Kirkman: So, that's why I'm asking... and again, like in our Ches Bay regulations, we say a water quality assessment will include the following eight elements. We don't say what standards they have to meet but we say what the elements are. And what I'm asking you is, what was your thinking about not including the list of elements that the consultant recommended be included in any groundwater management plan?

Mr. Baral: I don't have a clear answer to that question. But the thought process was to include those items in the policy that comes as a part of the ordinance. That is what the thought process was.

Ms. Kirkman: Also, the consultant recommended that there be prohibited uses in the recharge zone and the wellhead protection areas and I noticed that you have not included any prohibited uses.

Mr. Baral: I have included what activity would require a conditional use permit. That's true; prohibited activities I have not included in this.

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Ms. Kirkman: And what was your thinking about doing something different than what the consultant recommended?

Mr. Baral: I think the thought was that should be a part of the zoning ordinance. Certain uses in a certain area, that restriction could be received through the zoning ordinance. That is what the thought process was.

Ms. Kirkman: Okay. And then your list of conditional uses also differs from what the consultant had listed.

Mr. Baral: I think the conditional uses, they agree.

Ms. Kirkman: In part they don't agree because they have prohibited uses and you don't. That's part of the issue. And then I wanted to find out what your thinking was; you recommended a conditional use permit for some and a special exception for others. Those, under the State Code, are essentially the same thing except one goes through the Planning Commission and the other goes through the Board of Zoning Appeals. What was your thinking in making that distinction here?

Mr. Baral: Mr. Harvey, do you have some discussion about that on this?

Mr. Harvey: We had some discussion this afternoon about the mining and resource extraction. That probably should be a conditional use permit if it's in the zoning requirement because, in our current zoning ordinance, it is not a defined use. So, it's only allowed by conditional use permit anywhere in the County. Similarly, we have the questions about feedlots and whether that's something that can be regulated and/or should be regulated. And, as our discussion tonight, maybe that is a conditional use permit. So, these are things that are open for discussion and direction to staff as far as should we be regulating uses with this ordinance or should we be focusing on the groundwater withdrawal and how we go about requiring standards for what they submit for the withdrawal and what standards they have to apply by if we find out that there is a problem based on their model. So, as Rishi was saying, we have a two part issue; are we regulating the use of the wells and/or do we regulate the use of activities around the wells for the wellhead protection, and also for recharge. Do we regulate uses through a zoning ordinance because the groundwater withdrawal regulations do not really fit very well into a zoning ordinance scheme. They are more a technical nature, as we discussed, and would be better suited for a different section of the Code.

Ms. Kirkman: But for the testing and groundwater management component, it seems like that would be appropriate in the subdivision ordinance in terms of what's submitted with subdivision and site plans. Right? Because this body has no authority to do like a straight-up groundwater management ordinance. We either have to do something with the subdivision ordinance or the zoning ordinance; those are the only two areas where we can initiate legislation. So, that's how I think we need to think of this is what component is appropriate for the subdivision ordinance, which would be what they submit with subdivision or site plans, and what component is appropriate for the zoning ordinance, which would have to do with land uses.

Mr. Harvey: The subdivision ordinance would apply to any new lots being created and the creation of new subdivisions. Your zoning ordinance would apply if someone was doing a major project where they were building a new building and that would be regulated through the site plan aspect. The discussion about the groundwater management plan and the ordinance, as far as withdrawal, was dealing with more across the board countywide type of issue rather than strictly focusing on new

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development. There may be some withdrawals you will have for something that doesn't require a site plan like if you already have a platted neighborhood and they are building out houses within the platted neighborhood. But if that's the direction the Commission thinks we should go, we can gear the ordinance in that fashion.

Mr. Fields: I think that's sort of where we're headed, isn't it? We just want to be sure that we are protecting our groundwater supply in the County in the terms of its availability, it's viability in terms of providing water, and then in terms of protecting the recharge areas. So, I am assuming that wherever they fit in those two categories is what we want our ordinance that we're recommending to focus on. If there is technical ordinances that go into different parts of the Code, then that's really beyond the scope of the Planning Commission.

Mr. Harvey: If I recall correctly, in the research when we were looking at the other localities, it wasn't necessarily all in their subdivision and zoning ordinances, some of them were in other parts of the Code. So, if that's the direction, then that's what we will focus trying to craft the ordinances to put it in the subdivision or zoning ordinance.

Mr. Fields: That seems to make the most sense to me. Any comments? Thoughts? Okay. So, is our direction to staff to keep forging ahead but keep focusing on the zoning and subdivision ordinance aspects of groundwater management? Does that satisfy everybody's questions? Okay, very good. Alrighty, let's see where we are here. Do we have anything else on this proposed ordinance? I guess we might want to go ahead and take our break, I guess, now. And on the evening session we have one public hearing. And then really, so we can pick up on the Comp Plan discussion I guess on the evening session after we do the public hearing, elect officers and all that good stuff. Okay, sounds good. We will recess until 7:30.

3. Elimination of the Preliminary Subdivision Plan Process (**Deferred for legal analysis**)
4. Rappahannock River Overlay District (Deferred to subcommittee - Peter Fields, Ruth Carlone, Friends of the Rappahannock and Rappahannock River Basin Commission) (Request sent to Board of Supervisors for indefinite postponement)

REVIEW OF PENDING REZONING/CONDITIONAL USE PERMITS

None

REVIEW OF PENDING SUBDIVISION PLANS

None

REVIEW OF PROPOSED COMPREHENSIVE PLAN AMENDMENTS

5. Amendments to the Comprehensive Plan (**Time Limit: January 20, 2010**)

Discussed in regular meeting.

OTHER UNFINISHED BUSINESS

None

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ADJOURNMENT

The meeting was adjourned at 6:56 p. m.

End of Work Session Agenda

7:30 P.M. REGULAR MEETING

The regular meeting of the Stafford County Planning Commission of Wednesday, January 6, 2010, was called to order at 7:31 p.m. by Chairman Peter Fields in the Board of Supervisors Chambers of the County Administrative Center.

MEMBERS PRESENT: Hazard, Rhodes, Hirons, Fields, Kirkman, Mitchell and Howard

MEMBERS ABSENT: None

STAFF PRESENT: Harvey, Roberts, Stinnette, Zuraf, Stepowany, Hess and deLamorton

ELECTION OF OFFICERS

Mr. Fields: I will now turn the meeting over to Mr. Harvey, Planning Director, and he will guide us through the process of electing a new Chairman. And then the Chairman will, of course, assume the role of presiding over the meeting and guide us through the election of Vice-Chairman and Secretary. Mr. Harvey?

A. Election of Chairman

Mr. Harvey: Thank you Mr. Fields. I will ask the Planning Commission, are there any nominations for the seat of Chairman?

Mr. Rhodes: Mr. Harvey, I would nominate Mr. Howard for Chairman.

Mr. Mitchell: Second.

Mr. Harvey: We have a nomination and a second. Will there be a call for the question?

Ms. Kirkman: I believe discussion is in order first. I am going to oppose the motion primarily because the Commissioner from Rock Hill missed more meetings than any other Commissioner last year, and I am concerned. I do believe we need a chair who can attend all the meetings and with that in mind I am making a substitute motion to nominate Mr. Fields as Chair.

Mr. Harvey: We have a nomination on the floor. Do we have a second?

Mr. Fields: Second.

Mr. Harvey: So, I will proceed with requesting a vote for the two nominations.

Mr. Fields: Mr. Planning Director, if I may add, in general motions, in my experience, had been on nominations, we didn't have motions or substitute motions but we simply put several names in

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nomination and then voted, which is fine with me as well. I don't want to seem like... putting my name on there is not necessarily a preemptive thing, it's simply putting the two names on the table.

Mr. Harvey: Yes.

Mr. Fields: Can we revise the motion to reflect that?

Ms. Kirkman: So done.

Mr. Fields: Okay, thank you.

Mr. Harvey: So, I will ask for a vote on the first nomination, Mr. Howard for Chairman. May I have the vote of the Commission please?

Mr. Fields: All those in favor?

Mr. Rhodes: All those in favor say aye. Aye.

Mr. Howard: Aye.

Mrs. Hazard: Aye.

Mr. Hirons: Aye.

Mr. Mitchell: Aye.

Mr. Harvey: For more clarification, may I call roll? Mr. Howard?

Mr. Howard: Aye.

Mr. Harvey: Mr. Mitchell?

Mr. Mitchell: Aye.

Mr. Harvey: Ms. Kirkman?

Ms. Kirkman: Nay.

Mr. Harvey: Mr. Fields?

Mr. Fields: Nay.

Mr. Harvey: Mr. Hirons?

Mr. Hirons: Aye.

Mr. Harvey: Mr. Rhodes?

Mr. Rhodes: Yes, aye.

Mr. Harvey: Mrs. Hazard?

Mrs. Hazard: Aye.

Mr. Harvey: Okay, for the nomination of Mr. Fields?

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Mr. Fields: It's really moot at that point if you have a majority.

Mr. Harvey: Okay, thank you. Please bear with us for a moment while we change seating positions.

Mr. Howard: Okay, thank you. We have a new Planning Commissioner at the moment and I would now ask Mr. Harvey to turn the meeting back over to the new Planning Commissioner.

Mr. Harvey: Yes, I turn the meeting back to Mr. Howard, the new Chairman.

B. Election of Vice-Chairman

Mr. Howard: Thank you, Mr. Harvey. We now move on to nominations for the election of Vice-Chairman for the Planning Commission of Stafford County.

Mr. Rhodes: Mr. Chairman? If you would indulge me a moment, first off I would like to say for our outgoing Chairman how much I have appreciated his service over the past couple years. I think he has run tremendous Planning Commission meetings, always ensured the opportunity that all the views were heard, worked hard to make sure that the public's issues were answered and addressed by staff or by others who could do so, and made sure that even on issues regardless of how the votes went, took time to make sure that the full views were presented forward to the Board of Supervisors, to ensure they had an understanding and went forward. And I have always been tremendously appreciative of that. I have also been tremendously appreciative of the fact that this is not about politics. Different Supervisors have different parties, most of them, some were independent and they appoint different individuals to the Planning Commission. But the Planning Commission is about doing what's best for the long term of Stafford County, so it is really, to some degree, a political party neutral. And, with all that said, I think given the way this body acts and this body works, I think we would be well served with the nomination of Mr. Fields for Vice-Chairman.

Mr. Mitchell: Second. Mr. Chairman, in nominating Mr. Fields for Vice-Chairman, I would like to say that I worked with Pete on the Board of Supervisors, I've worked with Pete for several years here on the Planning Commission, I've never met a more fair man, a man that was more impartial. I think Pete has done a tremendous job and, exactly like Mike said, everyone's opinion was heard, everyone had a chance to speak and I never recall him shutting anyone down that requested to speak. So I take my hat off to Pete. I thank him for his service and I think it was a tremendous service. And, Pete, as one former Supervisor to another, you handled the Board extremely well.

Mr. Fields: Thank you Ken, I appreciate that. And Mike, very nicely said. Thank you.

Mr. Howard: Mr. Rhodes and Mr. Mitchell, I want to also comment. This is comment time since we are in discussion because it was seconded. Also, Pete, thank you for your hard work and dedication, not only to the Planning Commission but you do a lot in the County as well. And we are lucky to have you. We are glad you are here. I know you will participate at a level that will be very vivacious and encouraging to all, and we look forward to that. The truth is, this is not a political body nor should it be. And to take the politics out of this process I think is a great statement to make. And I appreciate Mr. Rhodes stepping up and making that nomination and Mr. Mitchell also seconding that to reaffirm that that is, from our perspective I think as a Commission as a whole, the direction in which we look to take. And I believe Pete started that two years ago, so we are looking to continue that. And we appreciate your leadership and direction in the last two years. And we look forward to your help over the next year as well.

Mr. Fields: My pleasure. I look forward to it too.

Mr. Howard: So, we will take the vote. All those in favor...

Ms. Kirkman: Excuse me; I have a comment to make. Mr. Chair, I would like to be recognized.

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Mr. Howard: I'm sorry, Ms. Kirkman. And if anyone else after Ms. Kirkman...

Ms. Kirkman: Despite all the words, this is a political process and we did just have a vote that was completely along party lines, five to two, so let's not lose sight of that. That's my comment, thank you.

Mr. Howard: Wonderful. If anyone else has a comment...

Mr. Fields: I would like to say thank you very much for all of the very encouraging comments. And it's been a pleasure serving as Chair for two years. I look forward to assisting however I can, the new Chairman and as Vice-Chair for two years, or however long this goes.

Mr. Mitchell: Mr. Chair, I make a motion that the nominations be closed with one nominee.

Ms. Kirkman: Second.

Mr. Howard: All those in favor of closing the nomination.

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Mr. Hirons: Aye.

Mr. Mitchell: Aye.

Mr. Fields: Aye.

Ms. Kirkman: Aye.

Mr. Howard: Aye. Opposed? Seven-zero. Now we will go to the motion that is on the table which is, there is only one candidate but we will do the vote anyway. All those in favor of Pete Fields as Vice-Chairman for the Planning Commission signal by saying aye.

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Mr. Hirons: Aye.

Mr. Mitchell: Aye.

Mr. Fields: Aye.

Ms. Kirkman: Aye.

Mr. Howard: Aye. Opposed? The vote passes 7 to 0. Thank you, well done.

Mr. Fields: Thank you.

Mr. Howard: We got our first seven-zero vote. Hopefully that's a sign of many to come. We now will move into are there any declarations of disqualification from... Oh, I'm sorry. Thank you. We now will move to the election of the Secretary.

C. Election of Secretary

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Mr. Rhodes: Mr. Chairman, I would nominate Mr. Mitchell for Secretary.

Ms. Kirkman: I'll second.

Mr. Fields: Second.

Mr. Howard: Any discussion? Ken, I will just say in the last two years you've done a great job of Secretary. The one challenge I will throw to all of us and I know we are going to get into the By-laws later, but if there's a way to get the minutes either sooner or if we change the timeframe so that we have them, I think Ken, you've got to lead the charge on that. But we will take the vote. All those in favor...

Mr. Fields: One item. I do want to say that I will conditionally support Mr. Mitchell for Secretary if he does have a Secretary's report at some point this year.

Mr. Mitchell: Mr. Fields, I promise you I will have one, at least.

Ms. Kirkman: Well, my comment was going to be I particularly appreciated his reports. They are the most efficient part of the meeting.

Mr. Howard: Any other comments? Hearing none, we will move to the vote. All those in favor of Ken Mitchell being elected as Secretary signal by saying aye.

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Mr. Hirons: Aye.

Mr. Mitchell: Aye.

Mr. Fields: Aye.

Ms. Kirkman: Aye.

Mr. Howard: Aye. Opposed? It passes 7 to 0.

DECLARATIONS OF DISQUALIFICATION

Mr. Howard: Now we will move on to any disqualifications from any Commission members. Hearing none, I will move to the public presentations.

PUBLIC PRESENTATIONS

Mr. Howard: And this is not the part of the meeting where you would come up and speak for items that are on the agenda for the public hearings. This is anybody who wishes to address the Planning Commission, you may do so. You have three minutes to address the Planning Commission on any topic that is not part of the public hearings this evening, and you can do so by stepping up to the podium that is in the center of the room. I just want to remind everyone that when you address the Planning Commission, we will not address you back directly. We certainly appreciate hearing your comments and questions, and we will make note of those. And we will make every effort at the end of closing the public comment section or the public hearing to make sure that we can answer your questions as a group answer, not necessarily one on one. You will see some differences when there is a public hearing and the applicant comes up, we will ask that applicant some questions directly. But we don't respond directly to the citizens when they come up for the public presentations. So, if anyone is here to speak for any topic other than what's in the public hearings, please come forward.

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Paul Waldowski: It's a new year, a new decade, we have new Board members. And as a Planning Commission, I am very interested in what has been happening the last twenty years. I have reviewed a lot of your Comprehensive Plans. And I am going to get on my bandwagon about stormwater management fees and provide you with some additional research that I've done for the whole Commonwealth. We are a county that has to meet unfunded regulations on stormwater management following the Clean Water Act passed by Congress. And many of you may have forgotten that the last twenty years, I've seen Hurricane Fran, Hurricane Isabelle, I've seen many Nor'easters; we even had one last fall that left forty-eight consecutive hours in parts of Stafford County with rain. We had the worst blizzard in the twenty year history that I've lived in this County. And most of you know I am a homeowner for multiple properties, but the one I am really dealing with is I am one of 107 townhouse owners who has to maintain a stormwater pond. Now, here is some of the input I have for you because I've listened to some of your comments about wellheads and all other kinds of nonsense. And there are 929 storm ponds in this County, in the City of Richmond, Virginia Beach, Norfolk, and several others in the Hampton Roads area. But even our sister county, Prince William, has come up with a focusing effort to protect our water with a fair and equitable source of funding. You know, everything is political; let's be realistic. And I love when a politician challenges me financially. Here's what Prince William came up with: \$26.36 annual fee, they bill it twice a year, \$13.18, that's \$2.20 a month. Townhouse and condominium owners pay \$989, which is also bi-annual which totals \$1.65 a month. Now, you know, I have to pay for my twenty-one year old Volvo every six months, the last one being December 5th, and my proposal to you and recommendation is that you need to look at funding this in an equitable source. And yes, if you read the Prince William aspect, it takes into account about agricultural crop lands, undeveloped properties. There are other issues. But we are talking about all the citizens in Stafford, not just myself. And water affects every one of us in some way that is going on. So, let me close with wise and common sense common in the Commonwealth.

Mr. Howard: Thank you Mr. Waldowski. If anyone else is here for public presentations, please step forward. Seeing no one, I will now close the public presentations portion and I will ask staff to come forward and, I guess, bring us up-to-date on the CUP2900235 which is a Conditional Use Permit for the Garden of Delight. That will be before us for a public hearing in just a minute. Typically what happens also is Stafford County staff will give an update and review the CUP in detail with us and we will ask staff some questions and we may have some additional questions. And at that point, we will allow the applicant to come forward as well and then we'll open the public hearing for public comments. So, Mr. Hess?

PUBLIC HEARINGS

6. CUP2900235; Conditional Use Permit - Garden of Delight - A request for a Conditional Use Permit to allow a place of worship within an M-1, Light Industrial Zoning District, on Assessor's Parcel 54-49H consisting of approximately 1.13 acres, located on the east side of Baron Park Road approximately 900 feet south of White Oak Road within the George Washington Election District. The development would include a church building, daycare associated with worship services, parking lot and play area for church use only. **(Time Limit: April 6, 2010)**

Mr. Hess: Thank you Mr. Chairman. Can I have the floor computer please? Staff brings to you tonight Conditional Use Permit 2900235, Garden of Delight Church. The applicant is Noah Alvarez. The owner, it's in Spanish; I apologize, I don't know my Spanish very well but it translates to essentially Garden of Delight Incorporation. The Assessor's Parcel is 54-49H and the approximate size of the parcel is 1.13 acres. The request is to allow a place of worship in an M-1, Light Industrial Zoning District. The property is currently undeveloped. The location of the property is on the east side of Baron Park Road approximately 900 feet south of White Oak Road. Here is an aerial photograph showing you the parcel, its center in the middle with a light blue line around it. And, as you can see,

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there are additional residential houses to the east, northeast. There are some industrial warehouses and storage yards; there to the south, this is a dog kennel and to the north this building right here has three tenants, one is I believe a landscape engineer, I can't remember the middle one, and this one I believe is vacant. This is a beverage company located right here and this is a trucking industry right there. The current zoning of the area, as you can tell, Baron Park, as a whole, is zoned M-1 which is in the light blue. There are some convenience commercial properties zoned to the east and northeast and then you have some residential zoned properties, suburban residential in yellow. The Land Use Plan calls for light industrial uses on this property with a smidgen of suburban residential land use as well on the property. The proposal is to build a one-story, approximately 5,600 square foot church. The max height of the church would be 25 feet with a steeple on top. The church would be located at the rear of the property with parking out front. The church is being built to accommodate approximately 200 persons. Within side the church would consist of three classrooms for Sunday school, a changing room and an office. I want to mention that the applicant has mentioned that the church would hold service either on Tuesday or Wednesday during the night as well, so it is not just classrooms being used on Sunday. But the classrooms would be used potentially on Tuesday or Wednesday night starting around 7:30 or 8:00 and the service on Sunday would start around 11:00 a.m. approximately. There is also a fenced-in play area at the rear. It is also proposing one commercial entrance onto Baron Park Road. There are transitional buffers on all sides of the property. The proposal also would consist of a 4 by 6 foot sign to be located near the entrance of the church, and lighting facilities in the parking area, as well as on the rear of the church. This is to help with Crime Prevention Through Environmental Design, CPTED principles. Here is a picture of the Generalized Development Plan. As you can see, the church is located in the back, there is a play area right off the back of the church, we have transitional screening along the east, north and south of the property. Here is one commercial entrance; the sign is proposed approximately right there. You have your adjacent uses all around. As mentioned before, a dog kennel is over here, storage and warehouse tenants over here and more office storage down here. And this property over here is vacant. And the residential properties are in the back. Here is a picture of the church itself and the floor plan layout. Again, here are the classrooms. Here is where church services will be held, the entrance, foyer, bathrooms, so on and so forth. As far as transportation is concerned, the estimated trip generation did not warrant a TIA study, a Traffic Impact Analysis study, to be submitted. Mostly traffic, again, will be generated on Sundays with approximately 207 vehicle trips per day with 66 vehicle trips per hour. Also mentioned was they might have services either on a Tuesday or a Wednesday during the week and that would generate approximately 51 vehicle trips per day if you average out Monday through Friday and 8 vehicle trips per hour. Currently... I did not put this in the staff report, I just looked it up... there is currently 420 vehicle trips per day traveling on Baron Park Road. Other information is the project is to be served by public water and sewer. There is to be no outdoor storage, trash storage. The trash will be collected by the building tenant and disposed of at the County landfill facility. There were no identified historical or cultural resources and no wetlands, RPA or any other environmental sensitive lands on the property identified. The proposed conditions are daycare activities would be associated with regular worship services during their hours of operation essentially, the outdoor play areas would be enclosed with a 6 foot tall fence, porous pavement or permeable pavers will be used on 10 percent of the required parking. The pavers would obviously help reduce impervious surface and improve stormwater management. No parking would be allowed along onsite drive isles or Baron Park Road. Twenty-five percent of the required plant units would consist of evergreens. And should the applicant not obtain a building permit within five years, the CUP would expire. When staff looks at CUPs, they evaluate the project, the proposal, against these six criteria. Staff believes that their request meets the standards of issuance of this permit to essentially say that the proposed use does not change the character of the established pattern of the development. The proposed use would have no adverse affects on adjacent industrial properties as this use does not generate noise or smoke emissions and the planned hours of operation for the most part would not

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conflict with existing uses. Staff would also like to note that although the Land Use Plan is silent on the location of places of worship, staff believes that the proposed use meets the purpose and intent of the Land Use Plan. Continuing on with the evaluation criteria, positive aspects of the project would be that the proposal is consistent with the Land Use Plan, the conditions offset any potential negative impacts, the peak hours of operation differ from the adjacent businesses, and at this time there are no known negative impacts identified by staff. With that, staff recommends that the application meets the standards of issuance of a CUP and recommends approval of the Resolution R10-16. Any questions?

Mr. Howard: Any questions for staff?

Ms. Kirkman: Joey, can we go back to the slide with the conditions?

Mr. Hess: Yes ma'am. Floor computer please?

Ms. Kirkman: I don't think I've seen this as a condition before. Have we required or suggested this as a condition before that 10 percent of the required parking area will use the porous pavers?

Mr. Hess: We have not. At least the cases I've dealt with I have not seen this and I could not find an example. I simply had a stormwater management personnel review this case when we took it to our DRM meeting, our Development Review Meeting, and pointed out that if the applicant would be willing to do this, have them condition it. So, I asked the applicant if the applicant was willing to do the 10 percent porous paving on their parking area since it was a significant amount.

Ms. Kirkman: And is that a proffer that we are asking for in rezonings?

Mr. Hess: I do not know. I don't believe so, but...

Ms. Kirkman: I mean, it's a great practice, but I want to make sure that it's uniformly applied. So, will it be applied to future CUPs and rezonings as they come before us?

Mr. Hess: If the applicant is willing, I will definitely...

Ms. Kirkman: Well, conditions can be imposed.

Mr. Hess: Very true, very true.

Mr. Harvey: Also, Ms. Kirkman, if I recall, part of it was in discussion about the overall situation of the surrounding area and some of its site specific concerns. This is located within an existing industrial park, some of which may have been built before we had stormwater management standards. So this may be a way for them to help address their onsite stormwater management since there is no big regional pond to serve the entire project.

Ms. Kirkman: But, is this something we will be bringing to future applications?

Mr. Hess: We certainly could put it out there.

Mr. Harvey: It will depend on the site specific situation for the property, if there is already a stormwater management feature serving a particular property, we may not need to ask for these types of

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measures. But, certainly that is something we will consider for new development where they don't have existing stormwater to handle the runoff.

Ms. Kirkman: Thank you.

Mr. Howard: Anyone else with questions for staff? Mr. Hess, I have a couple. Baron Road leads into which road? It dead-ends at one point, right?

Mr. Hess: It does dead-end as you go south on it and when you go north on it, you come up to White Oak Road. And it's the point where White Oak Road goes from a four-lane divided facility to a two-lane undivided facility if you are travelling west to east.

Mr. Howard: And what is the traffic count there? The trips per day there, do you know?

Mr. Hess: On White Oak Road? Well, if you are going... let's see, it says east of the intersection so going east, a two-lane undivided road, it is approximately 9,600 vehicle trips per day. And then the traffic count going west towards the four-lane divided facility section is approximately 16,000 vehicle trips per day, and that was from the 2008 VDOT traffic counts.

Mr. Howard: 2008?

Mr. Hess: Yes, that is the most recent one we have.

Mr. Howard: Okay. And, is there a traffic light at that intersection? There is a "T" intersection at Baron Road and White Oak, right?

Mr. Hess: Correct, yes. There is no light at that intersection.

Mr. Howard: So, where... to get to 95 from that location, or actually Route 1, you would have to make a left and head east, is that right?

Mr. Hess: Correct. Head west.

Mr. Howard: Head west, I'm sorry. Thank you. And there is no traffic light there?

Mr. Hess: That's correct.

Mr. Howard: Okay.

Mr. Fields: There is one just down the road. You have got the major intersection of Cool Springs, White Oak, Deacon and Butler.

Mr. Howard: Is that 218 or something? And then, on the application itself, I was a little confused at some of the information that was on the application and the permit. Maybe you have the answers for this. There is a phone number that is being used. It's 703-975-9592; whose phone number is that?

Mr. Hess: That is Mr. Alvarez's phone number.

Mr. Howard: So, is that Noah Alvarez?

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Mr. Hess: Correct.

Mr. Howard: Okay. Then, inside of the application affidavit, there are... Noah is the applicant but then there are names of who the President is and who the Vice-President is. So, the question I have... is Mrs. Ethel Alvarez; is that her legal name or does she go by a different name? Is her first name Brawley, do you know? Do you know that? Or you may not know that.

Mr. Hess: I do not know that. Mr. Alvarez is here; he could address that.

Mr. Howard: Right. And is there anything on file in terms of this church... is this a registered not for profit organization? It is?

Mr. Hess: No, sorry, I was nodding. That question was brought forth to Mr. Alvarez and he has information to update you on as far as the non-profit status.

Mr. Howard: But to your knowledge right now, is it a corporation that is actually incorporated in the State of Virginia?

Mr. Hess: Not to my knowledge, no.

Mr. Howard: Okay. Thank you.

Ms. Kirkman: Since apparently there has been some discussion about the incorporation status, did you also look into whether or not Virginia actually requires churches to incorporate?

Mr. Hess: I did not look into that, no ma'am.

Ms. Kirkman: Thank you.

Mrs. Roberts: Mr. Hess and Mr. Chairman, while I can't speak on the non-profit, I did look at the SCC and it is incorporated.

Mr. Howard: Okay good. Thank you. Alright, if there are no further questions for staff, I would like to, at this time, bring the applicant up and see if there are any comments or questions from the Commission or if the applicant has a statement to make.

Mr. Hess: Certainly.

Noah Alvarez: Thank you Mr. Chairman and members of the Planning Commission. I was selected to apply on behalf of the church, Garden of Delight, Iglesia Jardin De Delicias. We are a small Hispanic church, fairly new to Virginia. We were incorporated in the State of Virginia in July of 2008. I think the biggest issue, or I guess concern, when we purchased the lot, was the safety of the members going to a church service. That is why we conducted several trips; we did some research, we went to the area during the times we would have service and we found that most of the businesses are closed. And there is not really much activity going on during the times we want to have service, which would be either Tuesday or Wednesday at 8 o'clock. It would be a bible study; and then on Sundays at 11 o'clock. The safety of our members is very important. We think that the required screening and buffer also requires another level of safety to the site itself. We chose Baron Park; we thought it was ideal for us.

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We had been looking at many different sites. Commercial sites were out of budget for us. The next alternative was agricultural lots and the agricultural lots presented several obstacles for us in that some of them were not easily accessible to routes like White Oak Road or Route 1 or 95. Some of the agricultural lots we saw did not have the proper perk for a church or did not have water and sewer available. So we thought this particular lot was suitable for us with the only obstacle being obtaining the Conditional Use Permit, which is why we are here. We would not serve any imposition, I don't think, to any other businesses surrounding our lot. We would only use our lot, our parking, and we think that we would like to be able to build our church there and do what we feel God has intended us to do in this neighborhood. So, I want to thank you again and I hope you consider our request.

Mr. Howard: Thank you Mr. Alvarez. Would you mind just waiting just to see if there are any questions from the Commission for the applicant?

Mr. Alvarez: Not at all.

Mr. Howard: Any questions? Mr. Hirons.

Mr. Hirons: How many members?

Mr. Alvarez: We currently have about fifty members.

Mr. Hirons: And is that individuals or is that families? Fifty families?

Mr. Alvarez: That's individuals.

Mr. Howard: Thank you. Any other questions from the Commission? Mr. Alvarez, I just have one maybe you can clarify. The 703 number I actually read off before, what number is that to?

Mr. Alvarez: That is my phone number.

Mr. Howard: That is your home number?

Mr. Alvarez: That is my cell phone number. That is the best number to reach me.

Mr. Howard: Oh, okay... alright. And that is the number right now because the church isn't built, is that correct?

Mr. Alvarez: Yes.

Mr. Howard: Is this a relocation of an existing facility?

Mr. Alvarez: Right now we are actually renting at a high school.

Mr. Howard: Okay. And most of the members, they probably lived scattered throughout the...

Mr. Alvarez: Yes. We have members... I guess I will give you a range from Dumfries all the way down to Fredericksburg.

Mr. Howard: Okay. Any other questions? Okay, thank you.

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Mr. Alvarez: Thank you.

Mr. Howard: Okay, we will now open up the public hearing seeing as there are no other additional questions for the applicant at this time. Those who would like to speak either in favor of or not in favor of, the Planning Commission granting the CUP for the Garden of Delight may step forward. And you can step forward and get in line behind the podium if you want. And, again, I would just remind you that you have three minutes to speak and we will not address your comments or questions individually but in total. If questions arise that we can either answer or the applicant or staff can, we will try to get your question answered tonight for you as a group. So, those wishing to speak may come forward now. Okay, seeing no one stepping forward to the podium, we will now close the public hearing and we will bring it back to the Planning Commission for discussion. Mr. Vice-Chair, this is in your magisterial district so I will let you have the floor.

Mr. Fields: I am certainly pleased at this time to move for approval of Conditional Use Permit 2900235.

Ms. Kirkman: Second.

Mr. Fields: I would just like to say I certainly welcome... this is the area of the County that I served on the Board of Supervisors and continue to serve on the Planning Commission and I welcome you all with open arms to our community of faith and community of people. And I wish you all the best. Let us know, in any way, myself or Mr. Crisp of how we can help you.

Mr. Howard: Great. So, we have a motion to approve and we have a second; we can move into discussion. Is there any discussion from any of the Planning Commissioners?

Ms. Kirkman: Mr. Chair, I seconded the motion because I believe, as staff pointed out, it meets all of the criteria for a Conditional Use Permit. Also, I concur with staff's assessment that this proposed use has only positive contributions and does not have any negative contributions. Thank you.

Mr. Howard: Thank you. Any other comments from anyone on the Commission?

Mr. Mitchell: Mr. Chair, I plan on supporting the issue but, just for the records' sake, we did get two letters from two people that did not support it. So, just for the records' sake, but I will be supporting the issue. Like everyone else, I welcome the entire church to the community, I thank you, and I know they will be doing some good things.

Mr. Howard: Thank you Mr. Mitchell. Any other comments from Commission members? I would add my comments as the following. We do have two letters I want to make sure are included in the record. There are two businesses that have a concern about the number of vehicles basically, not the church itself or the fact that it's a place of worship, but more so the volume that will increase. I share the concern because I drove this twice and I am very worried about that intersection and people making a left-hand turn heading westbound onto White Oak. I went there two different times and, having a flow of people exiting that lot at one time which I assume will happen, that happens at most places of worship, when the service ends everyone typically will leave at a similar time. It is going to create a bottleneck out of there and, depending on the traffic, recognizing there are 16,000 vehicles heading one way and 8,000 the opposite way, that is 24,000 vehicles or so, that you have to negotiate or navigate through while making a left-hand turn which, obviously that is not continuous, but that is the concern I

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have. And I think I would have liked to have had some time to understand that better; to understand if there was something that could have been done to mitigate the risks that I believe are going to be involved in that. But I will support it as well, since it is in Mr. Fields' district and he wants to move forward without the typical two weeks length of time to review the CUP.

Mr. Rhodes: Mr. Chairman, I would just highlight that one of the two letters of non-support ties to the fact that they perceive that there will be a daycare center there. And clearly, from the conditions that are being proposed, there can be daycare operations in association with their normal church services, with that time, but not a five day a week daycare center. That certainly would have a different clientele, a different number of vehicles coming during the preponderance during the time there would be business at the other local establishments. But given the kennel that's there, Four Paws, that I happen to use so I go by there a lot, and some of the other businesses, there is a lot of traffic that is coming regularly and certainly this traffic is going to be a different pattern of time. It is certainly a bit of an odd place and location, not atypical, and they highlighted that fact that it works for them for them to be able to build and grow their church. And, so, while not a traditional location, certainly a location that will work for that and is consistent with the reasons that we would be supporting the CUP and certainly I also support it as well. Thank you Mr. Chairman.

Mr. Howard: Thank you Mr. Rhodes. And that was noted in the letters. It's an industrial park, basically, and zoned as such. And there are significantly large vehicles that come up and down that street at different times of the day which... that's a whole different issue. I was more concerned about the traffic on White Oak. Okay, so it has been...

Ms. Kirkman: Mr. Chair, one of the things that I think would be helpful before this reaches the Board is to have VDOT comment on whether or not a traffic signal can even be installed there given the proximity to the intersection with Cool Springs Road. And then, secondly, the ability to request a warrant study should traffic become an issue.

Mr. Howard: That's a great point. We can certainly do that. I think under the new VDOT, I think it's the 528 regulation, I believe the distance... I didn't measure it, I just eyeballed it... I think the distance between the existing light and where this light would go would not meet the criteria for VDOT. So, it still doesn't take the concern away though. To try to cross a street, we have 24,000 vehicles per day making a left turn... and I understand that Sunday there is probably a lot less volume... but the Tuesday/Thursday is different. And the trucks, I have seen some tractor-trailers coming in and out of that road. So, I think it is going to present some challenges that I am sure that the church members are prepared to deal with. I just hope it is all done in a safe way. That is my concern. So, we will now bring this to a vote, if there are no other comments. Okay. Hearing no other comments anyway, at this point, all those in favor of Mr. Fields' motion, signal by saying aye.

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Mr. Hirons: Aye.

Mr. Fields: Aye.

Ms. Kirkman: Aye.

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Mr. Mitchell: Aye.

Mr. Howard: Aye. Opposed say nay please. No opposed. The vote passes for the CUP 7-0. Congratulations! You are good.

Mr. Fields: Congratulations. Thank you very much.

Mr. Howard: That concludes the public hearing and also the CUP process. We will go back to the agenda and on the agenda we had some unfinished business that we were going to carry over from the work session. Mr. Harvey, that was

Mr. Harvey: Yes, Mr. Chairman, that was, if I recall correctly, we were about to reach the point of discussion of the Comp Plan.

Mr. Howard: Right. And I guess this is item 5 in the package?

Mr. Harvey: Yes sir.

Mr. Howard: Okay. So, item 5 is the amendments to the Comprehensive Plan and we have Mr. Zuraf here to take us through that.

5. Amendments to the Comprehensive Plan (**Time Limit: January 20, 2010**)

Mr. Zuraf: Good evening Mr. Chairman and members of the Planning Commission. I am Principal Planner with the Planning and Zoning Department and for the new members, just to make them aware, I am the Project Manager for the update of the Comprehensive Plan.

Mr. Rhodes: Forever.

Mr. Zuraf: Yeah, forever. And you should have received copies of the Draft Comprehensive Plan that is the latest version that has been under review. If you have any questions with that as you are going through it, please feel free to give me a call. At the last meeting on December 2nd, the Planning Commission basically provided some final comments, under the former Planning Commission group, some final comments on what the group wanted to see in the future direction of the Comprehensive Plan as it goes into this new year. Those comments I have summarized in the memo that has been provided to you. Also, we did provide some additional information as an attachment. We included the 2007 Census of Agriculture. That was provided in response to some previous questions that were received from the Commission regarding the term of agriculture in the Land Use Plan and questions on whether that's viable anymore. And, in looking at the Census, it does show there are still a good number of farms in the County; they are not full large-scale farms but it does identify that there are over 100 farms of different varying types in the County. So, that information has been provided for your information. As we move forward with this process, staff was intending on doing some work on developing some enhancements to the transportation info in the Plan. This is an item that was kind of discussed during the Transportation Committee. The Transportation Committee also has been discussing other issues dealing with corridor studies and sidewalk planning, but there was an overall kind of desire to enhance the level of transportation information in the Comp Plan. Also, staff is looking to definitely look to update some of the outdated information that is in the latest version of the document because now the latest version has some definite data that is out of date since it goes back from earlier last year and the year before. So, we do have to go through and clean it up. As a

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reminder, in addition to these basic things, the Board had requested the information to come back to them by the February 2nd Board meeting in response to the information and comments received from the Joint Public Hearing that was back in October. So, timing, I think, is of concern here at this point. There is only one more Planning Commission meeting before the February 2nd Board meeting. So, at this point, staff would be requesting some further direction from the Planning Commission as to where we should go from here on the Comp Plan.

Mr. Howard: Thank you Mr. Zuraf. Well, I will open it up for comments from Commissioners before I say anything. Anyone wish to comment on the Comp Plan and their desires and some of the comments that Mr. Zuraf just went through? Is it comprehensive? Did he hit the salient points that we discussed at the last meeting?

Mr. Fields: I'm pretty comfortable at this point.

Mr. Howard: Okay.

Ms. Kirkman: Mr. Chair, could you please clarify what the Board has requested in their Resolution?

Mr. Howard: I cannot but I will ask Mr. Harvey to tell us exactly what he believes that the Board's expectation is at this point.

Mr. Harvey: Mr. Chairman and Commission, it is my belief that the Board wants the Planning Commission to take into consideration the comments made at the public hearing and make recommendations back to the Board regarding those comments and any other changes the Commission feels is necessary to be incorporated into the Plan. At that point in time, I believe the Board would take that under advisement and then give further direction as far as any future public hearings regarding the Plan and any other changes to be made.

Mr. Howard: There were several other comments, if you recall, that Mr. Zuraf did not speak to this evening because they had been addressed at the December meeting. There was the lack of the transportation plan in there and there were several people, as well as Board members, who believe that we should have the Bond Referendum as part of the Comprehensive Plan; it should be included in here because it has been approved, it is something that the County is going to do and this is the twenty year view. There is the absence of the FIM, the Financial Impact Model. There was some land use recommendations in terms of changes. There was supposed to be changes made; the hospital is already built. And then there were other areas like parks, expanding existing parks. Were we looking at that. Were we looking at allocating land correctly for future park use? That was a big hot topic and discussion. So, we opted as a group in December not to do anything and now we are here in January. Those were all things that we were supposed to be working on or working towards. Do you have an update on that Mr. Zuraf?

Mr. Zuraf: I didn't necessarily get specific direction to make changes, I guess. My understanding was that the issue would kind of continue in 2010 and we would get more specific direction then.

Mr. Howard: Right. And I believe that is the spirit in the message that this Commission, or the Commission at that time, delivered to you. But I do know there was some expectation from the Board and I think there still is that these things be added and changed and there were some comments that Commissioners made here that are relevant and probably should be included and incorporated. So, the

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real question comes down to what do we need to do as a group to come together before... our next meeting is the 20th and the Board meeting would be the 19th, is that right? Usually it's the day before.

Mr. Harvey: The next Board meeting is the 19th, correct. It is our understanding the Board had requested this back for their February 2nd meeting.

Mr. Howard: Okay, so we have time if we wanted to put a committee of three or four together and come back and work with staff and hash through this. Does that make sense?

Mr. Zuraf: Yeah. The initial list we provided to you, there were about thirty or so items from the public hearing and I think that was kind of whittled down to about twelve or so. So, I don't know if you'd like us to come back for those remaining items to kind of reaffirm that those are the items that you would like to move forward to the Board as suggested things to look at in the future amendment to the plan. I will leave that up for your consideration.

Mr. Howard: Right. Well, let me poll the will of the Commission here. One of the comments that we all felt strongly about in 2009 when we ended the year was that there was a lot of hard work and effort that has gone into this and there was no desire to see this thing disappear and every desire to see it advance and move forward and come the Comprehensive Plan with those tweaks and changes. Is that still the will of this Commission?

Mr. Fields: Yeah, in general. I think we still have some points of disagreement but I think the structure of the plan is sound.

Mr. Howard: Okay.

Mr. Rhodes: Mr. Chairman, I would just highlight there were three areas that if there were a singular list going forward from a singular member, that I would highlight three things. The first on my list, one is I still believe we can say it's a guide and it's not prescriptive. That the overly prescribed language of shall in this document, given how significant that language is in legislation and how particularly it is used in legislation, I still think, directly or indirectly, it is going to set us up for some issues when we start taking actions for the right reasons that are not consistent with our Comprehensive Plan. It will start opening some doors and undermining us for other legal readings. I think we should use that, as most other jurisdictions do, in those few instances when they are absolute and have no reason or bases that they would ever be changed. Secondly, in the process and the later stages of the process, we incorporated fairly strongly some elements of some recommendations from a bunch of reports that came over from Quantico Marine Corps Base. And I think we got overly heavy in some of our guidance associated with trying to adopt them; trying to be accommodating and good neighbors to our military partners there that I think could use some relook to scale back a little bit. We took on six or seven different items of those that I think we went a little far in. And then thirdly, just based on our geography and our demographics and etcetera, we do have some odd spots of yellow when you look at our map. And it is just the reality of where our people are and essentially where we would be developing. But as you kind of tie those together going down that Route 1 corridor, I still say right there around the middle portion, when you get near Centerport and other things, we do some odd stuff with our corridor and we pull some important property out of our key planning areas. And so those would be the three elements that if I had a singular list, those would be the first three that jumped out of me and stood out as we went forward that I might recommend that the Board consider. Thank you Mr. Chairman.

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Mr. Howard: Thank you Mr. Rhodes. And you have been consistent with your shall and may and could or would. In fact, Mr. Nugent was working on something and then obviously is not here and, Mrs. Roberts, you came and I'm not sure that we gave you a full perspective of what we were looking for from the County Attorney. So, in other words, most of the plans that come before us, whether it's a subdivision plan or CUP, part of the Planning Commission's responsibility is to ensure that it is compliant with the overall Comprehensive Plan. And the concern that Mr. Rhodes is raising is the concern that if the language is worded in a legalese perspective that is more required than could or should, how much more binding does the document become. And that was something that we had asked Mr. Nugent and we did not have the opportunity to really get that answer.

Mr. Rhodes: Mr. Chair, I apologize, but if I could just interject. Both Mr. Nugent and Mrs. Roberts at several different times had opportunities and while I think it seemed to me that, the bottom line, the answer came back, is does not prescribe; it's a guiding document. That's where it is at the end of the day. That is a very direct answer and as she even was so kind, as was the planning staff, to poll peers in other areas and I think most of the answer were "I don't see why you need to be so prescriptive but I guess it wouldn't be a problem". I am overly simplifying but that is kind of what they came back and said. What I stay concerned with is, if we have out of 126 of the objectives and we have like... and my numbers are a little off but not far... 119 of them were very prescriptive and prescribed and shall and will, and a small percentage where we don't have them in there, if you have that many, we are very likely to take some actions, for all the right reasons, that will not be consistent with our Comprehensive Plan. And as we start, as a matter of practice, taking actions that are inconsistent with our Comprehensive Plan, I think at some point we are going to get sued for something and we will be inconsistent in our application.

Mrs. Roberts: Certainly.

Mr. Rhodes: And so, therefore, the less we put ourselves in that box... because there is always going to be a reason you have to take a different vote, choose something out there... but the more opportunities we give to our self to act inconsistent with the shall or will in our Comprehensive Plan, that's where I get concerned that we compromise ourselves. Thank you Mr. Chairman.

Mr. Howard: Thank you Mr. Rhodes. Mrs. Roberts, do you have anything to add? Mr. Rhodes gave us the hypothetical of even strongly worded, it might not be binding.

Mrs. Roberts: No, and I think as he pointed out, the Comp Plan is a guide but that doesn't prevent the developers of using it against us when we have shall and we didn't follow it. I mean, he is making a legitimate point; I am not necessarily agreeing that it makes the same strength that he is saying, but he certainly makes a valid concern.

Mr. Howard: Okay, thank you.

Mr. Mitchell: Mr. Chairman, if I could interject one thing. There is an area south of the hospital that I would like to take a second look at. Mr. Harvey is aware of it; I have mentioned it to him. I will get with staff this week and just take a second look at it, including it to be an area that would benefit the hospital. So, anyway, I would like to take a look at it, present it to the Board and then go from there.

Mr. Howard: Okay, Mr. Mitchell. There was also some comments around the airport as well, concerning the airport that other people had.

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Ms. Kirkman: Mr. Chair, could we get some more clarification from the Commissioner from Aquia about what he means by “take a look at” and which area specifically he is referring to?

Mr. Howard: Certainly, I will ask Mr. Mitchell that. Mr. Mitchell, will you give us additional detail, if you have it, specifically...

Mr. Mitchell: What I would like to do is sit down with staff and see if it makes sense to include these particular pieces of property that might behoove and help the hospital and include them in the Comprehensive Plan. Under the old Comprehensive Plan they were left completely out. There are several other areas; they are not in my district so I am not going to get involved with them, but there are several areas in the south end of Stafford that I saw were taken out also and I was the one-third objection over the two-thirds approval of taking those things out. But the one I am concerned with is in my district.

Mr. Howard: Ms. Kirkman, does that help?

Ms. Kirkman: No, I still have no idea which parcel he is talking about.

Mr. Howard: I don't think he knows the parcel.

Ms. Kirkman: I think he does.

Mr. Mitchell: I don't have the lot numbers. I will get with County staff and we'll present them. And, like I said, we can either add them or not add them.

Mr. Howard: Okay, thank you.

Mr. Rhodes: Mr. Chairman?

Mr. Howard: Mr. Fields first, Mr. Rhodes.

Mr. Fields: We've had this debate and it's a very... there are significantly important points on both sides. I would just ask, in a cautionary way, that as we go about the idea of perhaps including some things into the Urban Service Area that have not been included that we take as a cautionary tale the unforeseen consequences of in the name of promoting, let's say promoting or facilitating business development, the comprehensive rezoning of the Courthouse area to B-3 which, whether you were for or against that, was done. But the important point is, as we discovered with the Wyche Road property rezoning, one of the unintended consequences is that it created, as a matter of the by-right use, possible projected traffic counts that were extraordinary in their numbers. And so, in other words, that was an unintended consequence of jumping ahead of the gun. And I would just say that just to remind everybody that the logic for excluding properties that certainly have a logical business trajectory would simply be based on their current zoning being A-1, not being B-1 or B-2 or B-3, and that the instant they wanted to convert to a business use I think any rational person in the County would embrace that but it gives us the opportunity, under the rezoning like we didn't have at the Wyche Road properties and will not have with a lot of properties around the Courthouse, to negotiate traffic and other types of impacts to the County. So, I understand that we want to have a focused vision and that nobody would argue at the idea that the Route 1 corridor, both around the Courthouse for the hospital and the Government Center and all the way down to the airport, is a logical and we hope to be a thriving business location in the future. I would caution us against providing things that without being asked

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for them, we're at the point where they are being asked for in conjunction, in a collaborative effort with the property owner, we can make sure that the County's effort is being protected.

Mr. Howard: I agree with that Mr. Fields, thank you.

Mr. Rhodes: Mr. Chairman, carrying on Mr. Fields' comment indirectly, I would just also reinforce it's been a long journey getting to this point. And I think that was our closing comments in December. We don't need to throw it out and start all over and we don't need to get rid of a lot of things. That said, we have a request from the Board to get them something for their first meeting in February, that's a known, which gives us one more session to talk about it. I would submit for consideration that... and we didn't want to do too much, quite frankly, in December and we have two new members who under respect of the new Commission and the new Commissioners in putting this together, but we are up into a rather tight window, I might suggest for consideration that whatever remaining issues, and it doesn't have to be all the five percent issues but those ninety percent issues, I think, the big ones, we get them to staff in the next week so that they can compile them and put them together in our read-ahead and we can all consider them and digest them before we come here, and then we can work to put together any list for the Board that we think that they might consider as we refer this forward because we are going to have to refer something for consideration at our next session. And I don't know how else we do that necessarily than we each get our few key items identified and submitted to staff within the next week so that they can compile them and get them to all of us so we can look at them collectively. Just a thought. Thank you.

Mr. Howard: I think that's a good recommendation. I also wanted to make the offer, if there were three people, since the by-laws require us to have a committee of three, that would want to come together, in addition to each Commissioner's comments that they would like to add, but come together and go through the notes as Mr. Zuraf indicated to make sure we didn't miss something and be, with this duplicative effort taking place, just eliminate that. And it's never going to be 100 percent. I think everyone knows it's a Comp Plan, it's a moving document, it evolves. It has changed somewhat since last year and it's changed over the four years that it's been worked on. But we do have to get to a point. And I think having that deadline is great and we are just going to have to fix what we think is the right thing to fix and then move forward with the document, because we should be updating it, I think, every five years?

Mr. Zuraf: Yes.

Mr. Harvey: Yes. The State Code recommends you review the Plan every five years.

Mr. Howard: We're at our fifth year update already. So, I am not sure who has availability this week, whether it's... today is Wednesday already.

Mr. Fields: I hate to say it, it's just impractical for me. I hate to be not a team player here.

Mr. Howard: I can free up time, and will, for this Friday basically after one o'clock, and if anyone else would like to do that and we can spend all night doing that or whatever... I don't know. Ms. Kirkman, you've had a lot of input to this and I know over the years you've been actively involved. If you would like to participate in that or...

Ms. Kirkman: I'm sorry, I can't.

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Mr. Howard: Okay. So, any other member, but I would like to have three so it's a full committee, if possible. I know it's tough during the day.

Mr. Hirons: As a new member, Mr. Chairman, I would appreciate doing that so I can get up to speed of the inside details of it as well. I followed it but had to follow it from the outside. So, being on the inside, I would appreciate (inaudible).

Mr. Howard: Sure. If nothing else, you will learn some details about the Plan.

Mr. Hirons: Right.

Mr. Howard: Mrs. Roberts?

Mrs. Roberts: Mr. Chairman, since it's going to be a committee of three, it needs to be advertised at least three days before the meeting, so it can't be Friday.

Mr. Howard: Oh, okay. So then we don't want a committee of three is what you are saying.

Mrs. Roberts: Well, even if it's a committee... if you are saying it's a committee, even if it's two, you have to have the three days.

Mr. Howard: Okay. But if it's a work session, is it required?

Mrs. Roberts: You would still need the three days.

Mr. Howard: Okay. That would put us at Monday. And we don't even know if that's in your budget, Jeff, is it?

Mr. Harvey: We can issue a press release.

Mrs. Roberts: Yes. We just put it on the internet and do a press release.

Mr. Howard: Right. I don't know if Monday works any better for anybody.

Mrs. Hazard: Mr. Chairman, Monday is better than Friday. And I too, like Mr. Hirons, would like to get up to speed on it and also understand how it impacts some of the districts. So, I would be willing to serve on it. I don't bring a lot of the background though; it's going to be more of a fresh look.

Mr. Howard: I appreciate that Mrs. Hazard, thank you. Does that work any better Mr. Fields?

Mr. Fields: I hate to say it, but I will be in New York next Monday.

Mr. Howard: Hopefully that's a good thing. Is there any better day next week that works for anyone instead of me just picking the day?

Mr. Fields: Really, my schedule is overwhelmed for this next month, at least until the next meeting. I wish I could.

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Mr. Rhodes: Just since you asked, Wednesday is really the only day I can pull that off, if you are just polling.

Mr. Zuraf: Wednesday would probably be a deadline for staff because we mail out then our packets for the following week next Thursday.

Mr. Rhodes: I would still suggest that even notwithstanding, and if we do get together, the consideration of possibly Commissioners getting any individual comments they have, individual observations, to at least start compiling this by Monday, which gives you a couple days to compile them together, and then we have that, if nothing else for a discussion element on...

Mr. Howard: Is that fair with the other Planning Commissioners that if you get your comments in by Monday? Okay, so why don't we just do that.

Mr. Zuraf: And I have the list of all the previous comments that were provided and I can bring that along and we can go through and cancel out what was...

Mr. Rhodes: List upon list upon list.

Mr. Howard: Right, there is some duplication there. So, the expectation would be when you mail the package out a week from this Friday, included in that package we would have everyone's comments but also kind of the laundry list of issues. And if we could spend that weekend going through that, that could help us.

Mr. Zuraf: So then a list of issues and then go through the list at the next Planning Commission meeting and cancel out what we don't want to move forward and identify what we do.

Mr. Howard: Okay.

Mr. Rhodes: Mr. Chairman, I apologize for the redundancy. My last reinforcing point would be, at least from my perspective, what I intend to submit, is not every single thing I can think of on the list but I think the very significant major items because there will be a thousand things we can come up with.

Mr. Howard: Absolutely.

Mr. Zuraf: And what I see that this point would be a list of issues and not necessarily final products because some of the items may take a while to compile. For example, the more detailed transportation information into the plan, that may take a while. And if it's a whole list of items, that may not happen in time as far as the Commission reviewing everything word for word.

Mr. Howard: I agree. Some of this could be conceptual, so one example that comes to mind for me is, and this was a few months ago, we talked about there is really no mass transit plan in there even though we don't necessarily have it. We have FRED and that's about all we have, and there is nothing designated within the transportation portion of the Comp Plan that helps you identify where the County desires to have additional bus stops and so on and so forth. So, that was one example that we talked about that I have in my notes. And there is a couple. So some of this could just be conceptual should that be part of this... you know, this is a twenty year view, so should it be part of that and would that

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be part of the Planning Commission's recommendation. So, at this point, we will get our emails into staff. Mr. Harvey, who would you like the emails directed towards?

Mr. Harvey: If you could send them to Mr. Zuraf since he is the project manager.

Mr. Howard: Okay.

Mr. Zuraf: And I will send everybody a reminder email after the meeting just for everybody to respond to.

Mr. Howard: Alright. And we will get those in by Monday and, hopefully, that's good enough. Were there any other comments from the Commissioners on the Comprehensive Plan?

Mr. Zuraf: Was there going to be a meeting with...

Mr. Howard: No. It doesn't look like we can do it from a legal perspective with the dates, so if it does require three days, which it does, we wouldn't be able to meet... for Friday, anyway. And the other dates seem to be one or two could and all us couldn't.

Ms. Kirkman: Mr. Chair, I am sure Mr. Zuraf is very disappointed that there won't be yet another meeting.

Mr. Zuraf: Yeah, I haven't had one in a while.

Mr. Rhodes: Mr. Chairman, but I would just reinforce I understand very strongly the perspective of our new Commissioners and I would suggest that they consider, as their schedules allow, they touch base with Mr. Zuraf. He has been here since day one of the journey and he could probably provide the most concise, but most complete, representation of how that journey evolved, and which would provide some foundation and would be beneficial. Thank you Mr. Chairman.

Mr. Howard: Thank you Mr. Rhodes. Okay, where are we on the agenda? We finished...

Mr. Harvey: Mr. Chairman, I accidentally skipped an item. Before our break, we...

Mr. Howard: That's what I was referring to; I didn't remember what talked about we were going to bring forward.

Mr. Harvey: We asked about the Reservoir Protection Overlay District and the resolution that referred it back to the Commission. We have secured a copy of that; specifically it says that it was referred back to the Commission and the Commission has discretion to make changes to the ordinance. The question would be do we have to have a public hearing. The Code specifies that if the Board refers an ordinance to the Commission, then they have ninety days in which to act. In this case, the Board sent the existing ordinance back and said recommend changes. So, we have a specific ordinance but it was a directive that you can make changes that you see fit. So, it's sort of in a quandary situation as to whether a public hearing is required or not. From one aspect in talking with Mrs. Roberts, if we want to investigate the issue of the feedlots in a conditional use permit, that is going to require additional legal research and it would have to be addressed probably before we advertise a hearing because we would have to have the final text to be advertised. Also, we have a practical situation I was going to get to regarding the rest of the agenda and the handout I provided the Commission about where we are

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expenditure-wise for public notice. And right now we are in a deficit. And I can talk to that in more detail if the Commission would like.

Mr. Howard: Yes, please do.

Mr. Harvey: Last year the Board of Supervisors changed the process with regard to public notice and stipulated that the Planning Commission would be responsible for monitoring its public notice and make any requests to the Board if there was additional need for public notice funds. Looking at the current situation under public notification, the budget line item is in arrears of a little over \$3,400. So, part of the problem is we have been giving you updates periodically but we don't receive the bills on a regular basis and sometimes we receive multiple bills at one time. So that is partly why you probably haven't seen that significant change prior to this point in time. Some of which you can partly explain from the standpoint that with this ordinance, we did have to advertise it twice because there was an error. The error was essentially worth about \$6,700 because of the requirement to post notice in the paper as well as send individual notices out. If that error had not occurred, we would still be okay, but the facts remain right now we are in arrears and need to request additional funding for public notification.

Mr. Howard: Well, we will do that under Mr. Fields' name. Ms. Kirkman?

Ms. Kirkman: Could I get some clarification from Mr. Harvey?

Mr. Howard: Please, yes.

Ms. Kirkman: Mr. Harvey, the joint public hearing on the Comprehensive Plan, how was the charge for that allocated?

Mr. Harvey: That came out of the Board of Supervisor's line items.

Ms. Kirkman: Okay, drats.

Mr. Howard: Good thought though, Ms. Kirkman. What did we spend last fiscal year, do you recall in total? Do you have that?

Mr. Harvey: I would have to check that, but it is probably close to what we were allocated this fiscal year which was around \$32,000.

Mr. Howard: So, that \$32,000 budget number to the left is the annual number, right? And then in the center is the actual?

Mr. Harvey: Correct.

Mr. Howard: Okay. So, it would be close to that same number? And there is no question, I am sure, after last night's meeting they will be looking for some reductions. What typically would we use in the next six months? Do you think it would be \$15,000 like it was in the past... is it equal distribution or is there more typically in the winter months versus spring?

Mr. Harvey: It depends on the types of activities the Commission gets involved with. I have had staff give me a brief synopsis and we are estimating that from now till the end of the year we may have ten

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to twelve land use cases and the cost would be around \$2,400 to advertise those. We may have two to four minor ordinance amendments which would be around \$800. So, we were estimating if we just did a normal course of business it would be about \$3,200 in additional funds that would be needed beyond what the deficit is. However, if we do any significant ordinance amendments such as the Reservoir Overlay, that would be \$13,800 potentially... and if there are any other major initiatives by the Board.

Mr. Howard: Mr. Harvey, what causes that type of a notification? Is it because it's countywide, is that what it is?

Mr. Harvey: The most significant cost is the notice to the individual owners and that occurs when you have a zoning text amendment that can potentially affect the density or intensity of the use. Also, if a large map is recommended to meet any concerns about legal challenge, that is a significant cost in the paper for the advertising. If I remember right, the Comprehensive Plan advertisement was around \$16,000 in the newspaper and that was a four page ad, two pages of maps and two pages of text.

Mr. Howard: The newspaper business is still doing well. Okay.

Mr. Fields: Just to indulge me for two seconds, for the new members... I will try not to make this too political but I would like to say that the issue of this cost of advertising has been driven to a large degree by two initiatives that came from the development industry. One was this bill requiring, Terrie Suit who is a delegate from the Hampton Roads area and also is a realtor actively engaged in real estate development, to require after Spotsylvania's downzoning in their Comprehensive Plan several years ago, to require this mailing notice to all individual people which was designed to put somewhat of a damper, a chilling effect, on these type of things. And the second was the strategy of constantly challenging the standards of notification when people have challenged decisions of the governing bodies regarding zonings which is, as Mr. Harvey has indicated, is partly why these ads now go to four pages. And some people are even printing the entire text of their Comp Plan as an advertisement because of the moving bar on the standards for legal challenges. So, it doesn't necessarily solve the problem but I think we are being caught in somewhat of a grander game that has been played at the State level. I don't think we should feel that we have been in any way bad managers of the County's money, but the requirements and the standards have been driven by those two specific pieces of.. well, the specific piece of legislation and the process of adjudicating a lot of these decisions based on notification issues. That's all.

Mr. Howard: Thank you. Well, the request really would come from, I guess, the Commission itself and is this something you think we have to vote on?

Mr. Harvey: The way it was referred to that the Commission would request additional funds, I would assume that the Commission could do that and I would report to the Administrator in a memo.

Mr. Howard: Okay. So, we will try this first and see if this works. Is that the will of this Commission to go back to the Board of Supervisors and say "we believe we need \$3,200 to finish out the rest of the..."

Mr. Rhodes: The shortfall.

Ms. Kirkman: No, that didn't... Excuse me Mr. Chair, it depends on whether or not we include the Reservoir Protection Overlay District.

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Mr. Howard: I know that was much larger, but you're right Ms. Kirkman. My comments were going to be just around what Mr. Harvey... the normal course of business of which I think the Reservoir Protection Overlay we would go back, I would hope, for that specific item and indicate this is what it costs; this is what we need to do. Unless you want to ask for the entire amount; but I think the climate, at the moment, going in and asking for \$16,000 could be a different answer than asking for \$3,200 to do the normal course of business. Unless Mr. Harvey has a different thought.

Mr. Harvey: Just to clarify, the deficit and the additional funds to move forward, what we are projecting, would be a total of \$6,700 approximately.

Mr. Howard: Oh yeah, you're right; to clean up the deficit. Okay. So, it would be \$2,400 for land use and you mentioned \$800; I didn't really get to write that down. What was that? That was for additional CUPs?

Mr. Harvey: That was two to four minor ordinance amendments.

Mr. Howard: Ordinance amendments, okay.

Mr. Rhodes: And the Reservoir Protection Overlay was \$13,000?

Mr. Harvey: \$13,800.

Mr. Rhodes: So \$14,000. Another approach would be a memo that identifies for the Board all the things that we think could be coming up, which could include that, and then they act how they act.

Mr. Howard: Right. So, it's \$6,600, and that makes up the deficit. We get \$2,400 for the land use, \$800 for the ordinance amendment, and then a separate amount of \$13,800 for the Reservoir Protection Overlay. Why don't we put that in a letter to the Board of Supervisors and let them know that we are \$3,400 in arrears with an explanation of why, and then we are requesting an additional immediate funding of \$3,200 which will cover the \$2,400 projected land use, the \$800 ordinance amendment, and then we see a future need of an additional \$13,000 for the Reservoir Protection Overlay. And then there is also a second immediate need of \$3,400 to cover the amount that we are in arrears which you will have already in that explanation.

Mr. Harvey: Yes sir.

Mr. Howard: Is that the will of the Commission? Okay.

Ms. Kirkman: Mr. Chair, while that addresses the financial issues regarding advertisement, it does not address the legal issues regarding the timeframe. And my concern is that if we don't get that resolved and the ninety days expires, I think it's potentially possible that any citizen in the County could walk over to the Circuit Court and get a Writ of Mandamus moving the ordinance forward to the Board because the Commission failed to act on it.

Mr. Howard: Well, if we fail to act on it, I think it becomes our recommendation anyway, doesn't it?

Ms. Kirkman: It's deemed to have been approved by the Planning Commission.

Mr. Howard: Right.

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Mr. Fields: But that would be the one that we had the public hearing on, not all the modification one.

Mr. Howard: Right.

Mr. Fields: Which is, of course, what none of us wanted to see moved forward.

Ms. Kirkman: Mr. Chair, I believe, though, it is my understanding that literally the Board sent us back that exact same ordinance and said "amend it as you see fit".

Mr. Howard: Yes, they did say that, yes.

Ms. Kirkman: So, I think we have that original ordinance in front of us.

Mr. Howard: And we have the mandate to do it, but we don't have the funding to advertise for it. So, you are suggesting that we add the \$13,000 and say this is immediate as well.

Ms. Kirkman: No, what I'm saying, Mr. Chair, just to clarify is I think there is a legal issue here that if we do not act on the ordinance that was sent to us within ninety days, it is deemed to have been approved by the Planning Commission, and I think it may have even been a 7-0 vote to recommend denial.

Mr. Howard: Yes.

Ms. Kirkman: I don't think this Commission wants to be in the position of having this deemed to have been approved by the Planning Commission and that's my concern.

Mr. Howard: I agree.

Mr. Rhodes: Mr. Chairman, just to carry forward over for Madam Attorney, based on the Planning Director's indication that we are kind of in the gray area, do you think we are required to have a public hearing to make these modifications and other suggestions back to the Board?

Mrs. Roberts: I'm sorry, can you repeat that?

Mr. Rhodes: I thought I heard Mr. Harvey say that given the way this was referred back, there could be some question as to whether or not a public hearing is required to send back to them a modified ordinance. Is there any further opinion on that? We have one more time to get together before we hit that time limit.

Mrs. Roberts: Unfortunately, I wasn't at the meeting nor did I review the minutes, so I don't know if their intent was to make your amendments, send them back and have them refer them back for public hearing, or for you to make your amendments and have the public hearing within the ninety days and get your recommendation up there. I mean, we can seek clarification but I don't know the answer to that. And, technically, Ms. Kirkman is correct that if an ordinance was sent down to us and we didn't make a recommendation, it is deemed approved but I find it hard to believe in this situation where they are also saying you had good ideas, make your amendments.

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Mr. Rhodes: Might I suggest, if it's not blatantly inappropriate, that while we get an opinion on that to determine if we really have to have... we don't have time to advertise and have a public hearing anyways before our next session... so our only chance is to put together the last points we need to and discuss them at our next session, vote on them, refer them up and, at the same time, you can possibly get the further research to determine if there is some reason we can't do that. And just plan with approach to get the final refinement, I think there were a couple open items, the final couple items in there, get the changes incorporated by staff and have something we vote on next time we get together to send it forward with the modifications.

Mr. Howard: I agree, Mr. Rhodes. One of the issues that were raised today was the feedlots and should that be included or excluded... well, could it be a CUP. We don't know the answer to that. We don't know if we have the authority to regulate a feedlot. We know we have the authority to create zoning and zoning districts and overlays, we are not sure if we have the right to regulate a feedlot was my understanding. Is that right?

Mrs. Roberts: Yes.

Mr. Fields: Just for point of clarification. We're not sure if we have the authority to require a CUP for a feedlot.

Mrs. Roberts: Correct.

Mr. Howard: Yes.

Mr. Fields: Which, believe it or not, I think, and I don't want to be splitting hairs, it might be a separate issue. I think it is a very narrow thing that we are asking there. But certainly, interestingly enough, as we saw in the following ordinance, it was implied in that draft ordinance that we could but it raises the question whether we can or cannot.

Mr. Howard: Well, we don't think it was explored; it was in the draft ordinance (inaudible).

Mr. Fields: Right, I don't think it was explored either.

Mr. Howard: It was a recommendation. So, Mrs. Roberts, what would it take to get that answer? You certainly could have that answer by the next meeting.

Mrs. Roberts: Oh, absolutely.

Mr. Howard: Okay. And then, why don't we just go by Commissioner and let's understand, with the proposed ordinance 009-37 Reservoir Protection Overlay, which was part of the package and which we had in the work session, what else would you like staff to look at and research and work on so that this is ready for us at the next meeting and we can have our final vote and meet that deadline. Who wants to go first?

Mr. Fields: Just to say, I think we worked through it fine. What we have on paper, what we are looking at today, was good as far as I am concerned with the answer on the feedlots. My tier of preferences on the feedlot issue would be that we can permit it in those zones with a CUP. If we don't have the authority to do a CUP, I would roll the dice to say on the side of dropping the feedlots from the exclusion at least from the proximity and watershed zones. Certainly, I think, prohibiting them

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from within a 200 foot buffer zone is logical enough; possibly within the proximity but not the watershed. The watershed is a large, large area. And so those would be my only changes. Other than that, I am comfortable, with what we have already discussed, I am comfortable with the 200 foot buffer and I think all the other issues have been taken care of. So, if resolving the feedlot CUP is the only thing that would change, I could vote for it now as it sits.

Mr. Howard: Mr. Rhodes? Thank you Mr. Fields.

Mr. Rhodes: I am comfortable with what Mr. Fields said. The one item I was not quite clear on is still that item 6 where we had the conflicting authorities. Is what we're saying is what's being prepared to be referred to the Board to be referred to us going to clear up that issue?

Mrs. Roberts: Correct. It is going to craft the language from the State Code.

Mr. Rhodes: Okay, thank you.

Mr. Howard: Mr. Mitchell, any additional comments on this?

Mr. Mitchell: No additional comments.

Mr. Howard: Ms. Kirkman?

Ms. Kirkman: Yes. I would like a copy of the section of the minutes from when the Planning Commission last discussed this.

Mr. Howard: Okay. Mr. Hirons, any comments?

Mr. Hirons: No.

Mr. Howard: Thank you. Mrs. Hazard, any comments?

Mrs. Hazard: No.

Mr. Howard: Okay. So, at this point, why don't we direct staff, Mr. Stepowany, to let's wait and see what Mrs. Roberts can find out from a legal perspective on the feedlots. There was discussion about should it be 200 feet or 100 foot in that buffer zone and should we just follow the State Code versus creating a new Code. I know there was a lot of discussion and dialogue here indicating that the Chesapeake Bay Act is slightly different. These are parcels and homes much closer to the drinking water than the Chesapeake Bay Act and there is some relevance to that, but there is also nothing scientific today that says what we are doing is wrong. We've heard from the County, the water has been tested; the only issue we've ever had not only is treatable but is treated, is part of the normal treatment and that there didn't seem to be any alarming issues to do anything different. That goes back a few months. But, in any case, why don't we wait for Mrs. Roberts to find out, bring this back to the next work session and then we can move it forward at that point, have our vote, and make our recommendation to the Board of Supervisors.

Mr. Stepowany: Okay.

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Mr. Howard: Okay, thank you. Was there any other unfinished business, Mr. Harvey, that we had to take care of?

Mr. Harvey: No sir.

Mr. Fields: There's the Planning Director's Report.

Mr. Rhodes: Planning Director's Report?

Mr. Howard: Oh, yes, the Planning Director's Report.

UNFINISHED BUSINESS

None

NEW BUSINESS

None

PLANNING DIRECTOR'S REPORT

Mr. Harvey: Mr. Chairman, as a reminder to you and since this is the beginning of the year and there are new appointments, the Commission has a couple recommendations to the Board as far as other bodies that Commissioners do serve on. Specifically, the Architectural Review Board, there is by Code a member of the Planning Commission to be assigned to the Architectural Review Board. The Planning Commission would make a recommendation to the Board of Supervisors...

Mr. Howard: Who was the active one, was that Arch Di Peppe serving on that?

Mr. Harvey: It was Mrs. Carlone.

Mr. Howard: Mrs. Carlone, okay. And what other Boards are there?

Mr. Harvey: There is a Planning Commissioner sitting on the Regional Landfill Civil War Sites Committee.

Mr. Howard: Who was serving on that?

Mr. Harvey: Mr. Di Peppe. And previously there had been a Commissioner on the Parks and Rec Commission but I understand that that was reconstituted to a different format last night so there is no longer a Planning Commission participant with that group.

Mr. Howard: Who was the Planning Commission participant for that?

Mr. Harvey: Mr. Mitchell. Also by Code, a Planning Commissioner is considered to be a member of the Technical Review Committee and the last several years Mrs. Carlone has been the Planning Commission representative on the Technical Review Committee.

Mr. Howard: Thank you.

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Mr. Rhodes: Could you clarify the requirements associated with those various, I think there were three of them that remain?

Mr. Howard: Yeah, the Architectural Review Board, the Regional Landfill and the Technical Review Committee.

Mr. Harvey: Certainly. The Architectural Review Board, they regulate development, so to speak, in exterior renovations to buildings and structures within our designated historic districts. These are properties that have been identified by the County as being of historic significance and are within our County's designated historic zoning overlay district. And there are guidelines for the ARB for what features should be added or not added to buildings based on their historical context.

Mr. Fields: How often do they meet?

Mr. Harvey: They meet monthly, unless there is no business scheduled and then they may skip a month.

Mr. Fields: What has their average been the last couple of years?

Mr. Harvey: I would say they probably meet every other month based on workload.

Mr. Fields: What time do they meet?

Mr. Harvey: Recently, they had been meeting every month. They meet at three o'clock in the afternoon.

Mr. Fields: What day?

Mr. Harvey: They are scheduled to meet on Mondays. Next Monday would be their next regular meeting.

Mr. Howard: Do they meet here, Mr. Harvey?

Mr. Harvey: They meet in the ABC conference room.

Mr. Fields: Since they meet on Mondays, I might have a chance at it. I was just going to say I would offer since most of those properties are down in the George Washington/Falmouth Bottom area. And I have probably better than anyone else on the Board understanding of a lot of the context of that. But my teaching schedule is such though that it absolutely prohibits three o'clock on a Monday. Ever. So, I don't know what to say about that. I would be happy to talk with them to see if there is some way I could participate. How many different people are on that? Is that five people?

Mr. Harvey: If I recall correctly, it's five.

Mr. Fields: A Planning Commissioner, a couple of architects...

Mr. Harvey: An architectural historian, a resident of the historic district, there is I think two at large members. It's specified in the Code.

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Mr. Fields: Who is the current Chairman?

Mr. Harvey: I guess that remains to be seen. I believe Ms. Gossett has been the current past Chairman.

Mr. Fields: Okay. Well, maybe if you could get me the contact information for her. Mr. Chairman, with your permission I would like to maybe talk to her about that.

Mr. Howard: Absolutely.

Mr. Fields: Unless somebody else is chomping to take the job. I was just offering; I might have the best background for that.

Mr. Howard: So, unless someone else would like to seek that opportunity, which I don't hear anybody stepping up. Mr. Fields, we would appreciate that if you were able to work that out.

Mr. Fields: I will give it a try.

Mr. Howard: Thank you.

Mr. Harvey: Mr. Chairman, some more information for the Commission. At yesterday's Board of Supervisor's meeting, the Board passed a number of resolutions dealing with...

Ms. Kirkman: Excuse me, but weren't there two others?

Mr. Rhodes: There were two others, the TRC and the landfill.

Mr. Howard: Thank you Ms. Kirkman. The Architectural Review Board and the Regional Landfill. I'm sorry, the Regional Landfill and the TRC. When does the Regional Landfill meet?

Mr. Harvey: I'm not certain. I had limited participation in that. I think part of that is based upon availability of the Board members, because there are two Board of Supervisor members on that committee.

Mr. Howard: And the TRC is fairly regularly, right?

Mr. Harvey: The TRC, yes, that meets potentially twice a month based on workload. The meetings start at nine in the morning on Wednesdays and go till whenever we are completed.

Mr. Howard: And it's the same days that we meet, I think, right?

Mr. Harvey: The second and fourth.

Mr. Howard: Would anyone on the Commission desire to have either one of those opportunities presented?

Mr. Fields: TRC is a tough one.

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Mr. Howard: Yes, that is a tough one. Mr. Harvey, is it required that it be a Planning Commission member, do you know?

Mr. Harvey: I will have to check the Code. If I remember right, it specifies that it's the staff from various review agencies and a Planning Commissioner.

Mr. Rhodes: Mr. Chairman, if we have no one that can take on that commitment, it was a lot of time and I was being slightly facetious and slightly sincere when I said "God Bless Her" when Ruth was doing it for so long, but if nobody can do that, and I know that's a tough commitment, I don't know the viability of having folks somewhat rotate on that. I mean, I could take a day of leave once every four months or so or some type of thing like that if that might be the way to do it. I don't know. I know I certainly couldn't commit to that on a recurring basis but I would certainly step up and do my turn in the queue if we need to do it that way.

Mr. Fields: I think I could do that too if it was like maybe two a year or something like that. There are seven of us so if we each did one, that would be every year and two months that it turns around so, if you had to do two of them. So...

Mr. Rhodes: There are what, about fifteen to twenty a year? Sometimes it's twice, sometimes it's once.

Mr. Harvey: We have had other months where we don't have any.

Mr. Rhodes: I want that month.

Mr. Harvey: It depends upon new submissions.

Mr. Fields: So, you haven't had a TRC in the last six months?

Mrs. Hornung: Maybe one.

Mr. Fields: Let's keep our fingers crossed that the economic downturn continues and there is no new construction.

Mr. Rhodes: Unless somebody thinks they can pull that, a consideration might just be that we all get a little roster...

Mr. Howard: For the next meeting, could you bring back their meeting calendar.

Mr. Harvey: I believe it's in your notebooks. Oh, I'm sorry; the TRC calendar. I will get that.

Mr. Howard: Okay, thank you. And then we can divvy up the... I can donate, well, not necessarily donate but dedicate days as well. If it's planned well enough in advance for me I can make other arrangements.

Mr. Harvey: And yes, Mr. Chairman, looking at the definition in the Zoning Ordinance, it says "the committees consisting of governmental agency representatives as designated by the agent, and a member of the Planning Commission, with the responsibility for the technical review for site plans".

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Mr. Howard: Okay.

Mr. Rhodes: I'm sure staff would love having a newbie every six months

Mr. Howard: And then the Regional Landfill. If we could get that information on when they meet and how often and start time and length of the meeting particularly. I know the TRC meeting, when they do meet, it's a fairly full day.

Ms. Kirkman: Mr. Chair, that is in the Aquia District. Do you want to check in with that Commissioner?

Mr. Howard: I would love to check in with Ms. Kirkman if she has a an interest in the Regional Landfill opportunity.

Ms. Kirkman: No, I said the Aquia District.

Mr. Howard: Oh, I see. Mr. Mitchell, yeah.

Mr. Mitchell: Mr. Chairman, I was thinking about it but I don't know the parameters and when they meet. Because of my Falls Church job site and I know a lot of us head north, but if you could give me some more parameters of when they meet, how often they meet, the time they meet, where they meet.

Mr. Harvey: I will get some more information to the Commission.

Mr. Howard: Great, thank you.

Mr. Rhodes: I know we are in the middle of the Planning Director's Report, but we also have a couple other committees. Do we want to discuss those now or after the Planning Director's Report? The Transportation Committee...

Mr. Howard: We can discuss those now. The Transportation Committee. What are the other committees of the Planning Commission?

Mr. Harvey: Transportation has been sort of a smaller committee but, through your work session process you have had committees of the whole dealing with ordinances and Comprehensive Plan issues, but also you had a smaller committee at one point in time that dealt with the Comprehensive Plan as well.

Mr. Howard: Right. Yeah, there was no appetite for that earlier.

Mr. Harvey: For the most part, it's the Chairman's direction as to how...

Mr. Rhodes: The only other one we had active was the Transportation currently?

Mr. Harvey: Yes.

Mr. Howard: I think that committee should continue. I know I had every intention on being part of that but I only got to one meeting actually in the evening. But, Mr. Fields, you served on that as I think the Chairman, right?

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Mr. Fields: Yeah. Mr. Rhodes and I. I would be happy to continue that for at least a little bit. We are sort of in mid page right now.

Mr. Rhodes: I would be happy to continue that.

Mr. Fields: We kind of need to at least get to some closure on this corridor study thing. So, I am happy to do that.

Mr. Howard: Is there a third member that would like to participate in that committee?

Mr. Rhodes: It's the fourth Wednesday of each month; we start about 6:00 and end about 8:30 unless we are doing a field trip, then we start earlier.

Mr. Fields: Yeah, you do get to do field trips.

Mr. Howard: You get to drive a County van?

Mr. Fields: You get to ride in a County van.

Mr. Howard: With the little seal on the side?

Mr. Fields: Yep.

Mr. Howard: That's awesome.

Mrs. Hazard: I would be interested in that one.

Mr. Howard: Okay, Mrs. Hazard. Thank you; great. Alright, Mr. Harvey, if you could continue with the Director's Report.

Mr. Harvey: Thank you. At the Board of Supervisors meeting yesterday, they considered an item that will schedule a joint public hearing with the Planning Commission for February 16th. This joint public hearing will be... actually there will be two joint public hearings; one regarding a zoning text amendment to consider allowing research facilities with a conditional use permit in A-1 zoning categories, and a second joint public hearing dealing with a conditional use permit application to allow an expansion of an existing research facility in an A-1 agricultural zoning district. For a little bit more background, Hartwood Airport is located off of Cropp Road within the County, however, it straddles the County line between Stafford and Fauquier Counties. The Unisys Corporation has a research and testing facility that happens to be located on the Fauquier side of the property, so up until this point Stafford County really hasn't had the opportunity to regulate it from a zoning standpoint. They have a proposal to expand some of their operation which would encroach into Stafford County's jurisdiction, so that is why they would be required to go through our zoning process. There is a time deadline that they have to meet in order to keep things moving. As part of their research and testing, they do work for the Department of Homeland Security, some of which is tied in with some of our country's border protection. So, this joint public hearing is in effort to try to meet their needs to keep the project on track for national security. And staff would be happy to give the Commission a more detailed briefing on the specifics at a work session if you would like.

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Mr. Howard: That would be great if you could bring it to the next scheduled work session.

Mrs. Hazard: Mr. Chairman, as an education, is this something then that has to be advertised and is it in our budget or in theirs?

Mr. Howard: It would be in theirs.

Mrs. Hazard: Okay. Just didn't know if we were adding to our list.

Mr. Howard: Ms. Kirkman has already sought that information.

Mr. Rhodes: Mr. Harvey, what time is that joint public hearing proposed for?

Mr. Harvey: That would be at 7:00 p.m., the start of the Board's public hearings.

Mr. Fields: What day?

Mr. Harvey: February 16th.

Mr. Rhodes: Tuesday. So that would be Tuesday, the day before our second February session. And, at this point, how does our calendar and workload look?

Mr. Zuraf: There is possibly one hearing on the 17th.

Ms. Kirkman: Is there the possibility of scheduling that hearing at a different time?

Mr. Zuraf: I will talk to the applicant and see about pushing it back.

Ms. Kirkman: What do you mean, isn't it up to the department to determine?

Mr. Zuraf: It is, but it's ready to go.

Mr. Harvey: We can adjust the schedule if that's what the Commission would like.

Ms. Kirkman: Mr. Chair, I would like to suggest that we do that.

Mr. Howard: I agree, Ms. Kirkman, with the suggestion. If we can do that and whatever other business we have to take care of we can do on the 16th, that would be good.

Mr. Harvey: Mr. Chairman, I believe, unless you convene a separate meeting on the 16th, you will be focusing on the hearing.

Mr. Howard: Well, I guess we would eliminate the 17th meeting and pull business forward in February or go into March.

Mr. Harvey: So, is that a motion to amend your calendar?

Mr. Howard: We'll make that motion. Before we do that, can we look at...

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Mr. Fields: I'm not available on the 16th, but you don't need me.

Mr. Howard: Right. Well, it sounds like we're being requested.

Mr. Rhodes: Yeah, and I apologize. So, I guess that's where the question was. Is there anything that that breaks or messes up if we don't have a session on the 17th, focusing the 16th on the joint public hearing, either to move it up or to defer it into March. Does that break anything?

Mr. Harvey: Not that I'm aware of. Again, it would potentially delay a public hearing two more weeks but I am not aware of any time deadlines for that public hearing.

Mr. Rhodes: I would be inclined towards cancelling the 17th and making those adjustments unless something is uncovered that it was causing some damage somewhere.

Mr. Howard: Right. And we have to vote on that if we change the calendar, which is what Mr. Harvey was indicating. But, the calendar is in the black book that you gave everyone?

Mr. Harvey: Yes sir.

Mr. Howard: The meeting calendar? Is there anything else in that book that you wanted to... are there any other meetings... Last year I guess there were three meetings that were able to become more productive than other meetings and, as a result, we were able to cancel those meetings. Is there anything...?

Mr. Harvey: Right now, we have set a standard schedule based on the by-laws of the first and third Wednesday. If the Commission wants to adjust that, I guess you technically have to amend the by-laws and then vote to cancel the meetings.

Mr. Howard: Well, in the by-laws, we can vote to cancel the meetings today, right?

Mr. Harvey: Do you have any direction as far as other meetings during the year that you may want to consider cancelling?

Mr. Howard: I do have one other topic I want to put on the table for the group to consider, as we are thinking about that one particular schedule. As Mr. Mitchell said as well, it is tough for some people to get here for the 5:30 work session. And what's the appetite of the group to move the 5:30 to the 6:00 time slot? It may mean we are here a half an hour later but, at the end of the day, it might allow members who are struggling down I95 to get here.

Ms. Kirkman: Mr. Chair, before we move onto that, regarding the schedule I think typically, as the Board has done, the Planning Commission has tried to cancel so that we do just the first meeting in July and then the last meeting in August. And I think it would be really helpful if we could do that as far in advance as possible.

Mr. Howard: That was going to be my comment as well. This way, vacations can be planned and people can think about what they want to do. That's why I didn't want to just vote on the one cancellation. Excellent point Ms. Kirkman, which I believe we can do in the by-laws. What we have to change in the by-laws is the start time, I believe, of the work session.

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Mr. Harvey: Yes, Mr. Chairman. Also, I was going to mention that and there is a few items in there that could use some updating. There's the State Code Citation that is out of date; there is also my title reference in there incorrectly and, with regard to the minutes, staff would request that we have sixty days rather than thirty days. We are working to try to narrow that timeline; we have been experimenting with...

Mr. Howard: I just want to hear Ms. Kirkman vote on that.

Mr. Harvey: We have been working on voice recognition software to try to streamline that. Since we went to verbatim minutes, it expanded the amount of time that we have had to get them out. But we are experimenting with voice recognition software to hopefully cut that down. The one issue we have run into is that it only recognizes one voice so, essentially, Stacie has to repeat everything that everyone says for the computer to pick it up. But we are working on that to try to get your minutes to you more timely.

Mr. Howard: I think that's a great idea, by the way. That was going to be my recommendation on the by-laws as well. If we can go to the calendar, we don't know necessarily when the Board is going to do that, but we do know there is a pattern that has happened over the last two years anyway, that I am aware of. Meeting dates. It's a great binder, by the way, thank you for doing that.

Mr. Fields: Yeah, good job.

Mr. Harvey: You're welcome.

Mr. Howard: So, Ms. Kirkman was right. It was typically... I thought it was the August 4th and the July 21st but I could be wrong. Is that right?

Ms. Kirkman: Yes, Mr. Chair, I believe that's how it's been done in the past.

Mr. Howard: So, we could add that to the February 17th motion and then just eliminate those meeting dates. Mr. Harvey, your thoughts on that from a staff perspective?

Mr. Harvey: Right now we don't know of any scheduling conflicts.

Mr. Howard: Right.

Ms. Kirkman: Mr. Chair, that is the advantage of doing it now.

Mr. Howard: Exactly right. I was just wondering if you had a problem with not having any... I don't think so, especially since he was probably here until eleven o'clock last night. So, Ms. Kirkman, would you want to make that motion?

Ms. Kirkman: Yes, Mr. Chair. I move that the following meetings of the Planning Commission be cancelled: February 17th, July 21st and August 4th, 2010.

Mr. Mitchell: Second.

Mr. Howard: Second by Mr. Mitchell. Any discussion on that from any other Commission members? All those in favor say aye.

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Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Mr. Hirons: Aye.

Mr. Fields: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye. All those opposed? Hearing none opposed, the motion passes 7-0. So, Mr. Harvey, you will have that removed from the County website?

Mr. Harvey: Yes sir. And we will give you a corrected calendar.

Mr. Howard: Okay, thank you.

Mr. Harvey: And that concludes my report.

Mr. Fields: Mr. Harvey, we had a brief discussion about possibly streamlining the organization between the work session and the regular session?

Mr. Howard: That is in the by-law piece that we are going to go through, right?

Mr. Fields: Okay.

Mr. Harvey: Yes, that is in the by-laws. It would be necessary to amend the by-laws to do that, because Mr. Fields is referring to currently on your agendas you may have seen in the past where we have something on the work session listed as unfinished business and then it comes back on the regular session listed as unfinished business, and it's making the agenda exceedingly long. And staff's recommendation would be if we consider going to an agenda similar to the Board of Supervisors where you have a set time for presentations by the public and public hearings but the rest of your agenda can vary based upon the types of business you have to conduct, whether it be unfinished business, discussion items, new business.

Mr. Howard: Sort of ebb and flow along there. And we've actually done that.

Mr. Fields: We've sort of been operating under that concept; it just is kind of cumbersome for advertising that we have to sort of list this stuff and then list it again, and that's just because the by-laws require us to. So it would be easier and less list in one list starting at whatever time we start. You know, here's the stuff we are going to be talking about today and at 7:30 is the public hearing and public presentations. But we start with this list of things and just work till we are done.

Mr. Howard: Right. So, if we start on page 1 of 8 of the by-laws, where in the by-laws, Mr. Harvey, is that section?

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Mr. Harvey: You have a whole section dealing with...

Mr. Howard: Well, we are not going to change Section 2-1 which is dealing with when our regular meeting is held, which is the meeting we are having now. That should still start at 7:30...

Ms. Kirkman: Excuse me, Mr. Chair, can I just interrupt for a minute, because it actually gets to another point. You were, I believe, about to make which is the starting time and what I would like to suggest is that the Commission consider something along the lines of eliminating the dinner break and then just starting at 6:30 with one meeting. And we could start off with the public hearings and then move forward from there. I just think that would be perhaps a more efficient use of our time and it would also eliminate the expense of staff preparing meals for the Planning Commission.

Mr. Howard: I'm gonna miss those meals though.

Mr. Fields: Yeah, I know. I tell you, I live for that.

Ms. Kirkman: So, I think that would have some relevance to Section 2-1.

Mr. Howard: It certainly would, yeah, absolutely.

Ms. Kirkman: (Inaudible) I interrupted.

Mr. Howard: No, I appreciate the interruption... this time.

Ms. Kirkman: I'm going to get a videotape of that one.

Mr. Howard: Well, my suggestion would be this: to expedite this, if we made that notation now on the by-laws if it's the will to make that amendment and then we vote on the by-law changes in total. Can we do that Mrs. Roberts? I think we can.

Mrs. Roberts: Yes.

Mr. Howard: Okay, so why don't we do that. Is it the will of the Commission? I think it's a great idea; I'm not sure how others are thinking about it but if you can see an issue why we shouldn't do that, please indicate that.

Mr. Fields: Over the years, as we discussed things like public presentations and public hearings, you can't really start before 7:00 and really 7:30 is better because of the commuting nature of the people. So, we can start the meeting at any time but I don't think it's fair to push the public hearings or public presentations earlier than 7:30 because you just exclude too many people that way.

Mr. Hirons: However, the one concern I would have is if we don't actually start any business until 6:30, do we push public hearings back further?

Ms. Kirkman: No.

Mr. Hirons: Okay.

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Mr. Fields: Yeah, generally, as you've seen tonight, what happens is with the public hearing we have the advertised time and that no matter where we are, if we are in the middle of something, we stop, go to the public hearing at 7:30 and then continue, resume, at the end of the public hearing process.

Mr. Howard: And the reason we didn't tonight was because it was the organizational meeting. But that normally is exactly what occurs.

Mr. Rhodes: Anything starting after 6:00 I will support. I'm the guy who's always late.

Mr. Howard: Well, then, thinking about all those comments, would it make sense to start the work session at 6:30, not take a break, go right into the public meeting, stop what we are doing which would typically be what we would do anyway...

Mr. Harvey: Mr. Chairman, my suggestion would be to just do away with the term "work session" and just refer to items as unfinished business, new business.

Ms. Kirkman: Yes.

Mr. Howard: See, now we're talking.

Ms. Kirkman: Yes, I concur.

Mr. Howard: Now we are streamlining it.

Mr. Fields: Right.

Mr. Howard: That's good. Okay.

Mr. Rhodes: We're rolling.

Mr. Howard: Alright, so we can actually leave Section 2-1 because it does indicate... or we need to change that to 6:30 and then just change the ad language that says public hearings will commence at 7:30 p.m. So, in other words, what we are saying is our regular meeting will start at 6:30 on the first and third Wednesday of each month.

Mr. Harvey: Yes, Mr. Chairman, I would recommend that you do that and then modify your order of business at the regular meeting.

Mr. Howard: Okay. So, we'll just change it to 6:30. And is there a section in here on the work session?

Mr. Harvey: Yes, Section 4-2. That could potentially be eliminated

Mr. Fields: Yeah, just dump that right out of there.

Mr. Howard: Alright. So, we will remove Section 4-2. There is no need to renumber everything else though, right? We would just take 4-2, A and B out, is that right?

Mr. Harvey: Yes sir.

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Mr. Fields: I guess, technically, then you do have to renumber the whole thing but that's sort of a housekeeping thing.

Mr. Howard: Right. So Stacie can do that... can renumber everything.

Mr. Rhodes: We changed 4-1 to somehow modify the order or just to qualify that the public presentations don't start before 7:30? On 4-1?

Mr. Fields: Right. Do we to, and I think this was also something that Mr. Harvey was talking about, do we need to codify these agenda items in our by-laws, which means that we have to have these things on our page every time? I mean, I don't see the necessity to say we have to have all of these sections of an agenda, right? Other than to specify that we are going to start public hearings and comments at 7:30, we are really trying to be pretty fluid, right?

Mr. Harvey: I assume that you could specify that you Call to Order, Invocation and Pledge, do your Roll Call and your Disqualifications and then could begin the meeting, and then specify at 7:30 you move to Presentations by the Public and then Public hearings.

Mr. Howard: Yeah, I think we have to indicate that because we are saying in this section that we are calling the order of business and we have now changed the time so to now put presentations by the public to start at 7:30 and then public hearings immediately after that.

Ms. Kirkman: Mr. Chair, I was going to object to that because then we would lose the Secretary's Report but then I realized, that's not even on this list.

Mr. Howard: I know, I was waiting for somebody to say that.

Mr. Fields: It isn't even there... son of a gun.

Mr. Howard: That's why he never did it. But I do think item 6 and 7 would need to change.

Mr. Fields: Right.

Mr. Rhodes: Time specific.

Mr. Howard: Right, time specific. I mean, it doesn't cost us more to have... is it costing us more? The agenda is published on the internet.

Mr. Harvey: It's a minimal cost.

Mr. Howard: Right. I understand what Mr. Fields is indicating but I think by eliminating 4-2, A and B, that gets you down to one page basically.

Mr. Fields: Okay.

Mr. Howard: I like it and maybe just because I'm new and you have this thing memorized and I don't. So, in order of flow, I actually do like the way the meetings flowed in terms of this. So I would be in favor of just leaving it.

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Mr. Rhodes: We just qualify it as being time specific.

Mr. Howard: Yes, for 6 and 7.

Ms. Kirkman: I believe it was 6:30.

Mr. Howard: No, no. Items 6 and 7 under Section 4-1, you're right.

Ms. Kirkman: But, I guess on this, should we put at least, since we will never start the meeting with presentations by the public, since we're specifying that that's going to start at 7:30, should we put unfinished and new in front and then we can just move it when we hit the deadline. That would be my suggestion.

Mr. Fields: Yeah, that's a good idea.

Mr. Howard: That's a great idea.

Mr. Fields: Those become 6 and 7.

Mr. Rhodes: 8 and 9 become 6 and 7, and 6 and 7 become 8 and 9 with a time specific start. Who is going to make this motion?

Ms. Kirkman: Then, before we get past it, on Section 3-3 A. Not to diminish the role of the Secretary in any way, but I don't know that the Secretary in some time has maintained a file of all official records and reports of the Commission.

Mr. Rhodes: Have you looked in his trunk?

Mr. Mitchell: It says with help by the staff I believe.

Ms. Kirkman: Actually, it doesn't.

Mr. Howard: Actually, it says "the Secretary may be aided in performing the assigned...". Well, we want the files maintained...

Ms. Kirkman: I think that's required under State law. There are certain requirements and I don't know that we need to... while we are cleaning things up.

Mr. Howard: Yeah, if Mrs. Roberts is in agreement. I'm not sure of the Code on that but she's the Parliamentarian. If she says...

Mr. Fields: Is that mandated in the State Code? That the Secretary...

Mrs. Roberts: Oh, no, not that the Secretary maintains them but we, of course, follow the Virginia Library of Retention rules.

Mr. Rhodes: So we can just take that down to the one item?

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Mr. Howard: Yeah, then, so that would read A 2 would become A 1, right, and then A 1 would disappear and then B can go away as well. So, Ken still has a job. I wanted to back up to the previous page, Section 2-8 C and recommend that the minutes shall be considered for approval within sixty days. And I think that was it that I have.

Ms. Kirkman: This is not a by-law change but it's a request. Given that there are some issues with getting this to us in a timely manner, I think what might be helpful is if we could get in our packets just a list of the decisions made by the Planning Commission from the previous meeting.

Mr. Howard: A summary.

Ms. Kirkman: Just, you know, voted to recommend approval, denial, deferral...

Mr. Howard: An Executive Summary. That would be great, yeah.

Mr. Fields: That would be helpful.

Mr. Howard: Stacie, is that good?

Mrs. Stinnette: Sure.

Mr. Howard: Thanks.

Ms. Kirkman: And we would need to eliminate the reference to work session in Section 3-1.

Mr. Howard: What are you suggesting Ms. Kirkman?

Ms. Kirkman: If you want to retain the authority to appoint topic leaders, which in the two years I've been on the Planning Commission I don't think it's ever happened, but if you want to retain that authority then I would just stop the sentence at "to lead project reviews period" so that the reference to work session is eliminated.

Mr. Howard: Oh, I see what you're saying. I was wondering why you never did that.

Mr. Fields: Just out of curiosity, Mrs. Roberts, we have the power to do that because it says in the by-laws but that doesn't actually have any legal authority. You can't be indicted for perjury could you? If I administered an oath as Chair of the Planning Commission and somebody lied, can they be liable for perjury under the Code of Virginia?

Mr. Howard: Only if I did it.

Mrs. Roberts: No.

Mr. Fields: It's kind of pointless.

Mr. Howard: It's all being recorded anyway. And to Ms. Kirkman's point, it might only require that the Chair shall sign and certify all official materials and plans involving the Commissions' authority...

Mr. Fields: And preside over the meetings.

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Mr. Howard: Yeah, and preside over the meetings is probably the only two things that remain. So, is that what you are suggesting Ms. Kirkman?

Ms. Kirkman: Exactly.

Mr. Howard: "The Chair shall preside over the Commission meetings period."

Ms. Kirkman: And the Chair shall sign...

Mr. Howard: Right, and the Chair shall sign and certify.

Mr. Fields: That topic leader doesn't...

Ms. Kirkman: It's different than committees.

Mr. Fields: Okay, so that is filled out someplace else?

Ms. Kirkman: Yeah.

Mr. Fields: Okay, good. I just want to make sure.

Ms. Kirkman: And then, again, I'm not suggesting this as a by-law, but certainly the practice several years ago was the former, before Mr. Fields', Chair brought the gavel down to adjourn meetings at 11:15 p.m.

Mr. Howard: Yeah, you've mentioned that before. I'm okay with that.

Ms. Kirkman: And I actually, as a citizen activist, I actually found that helpful because you knew things were going to wind up at 11:15.

Mr. Howard: Right. You were an activist? I didn't know that.

Ms. Kirkman: Yeah, once in my lifetime.

Mr. Howard: The things you learn.

Mr. Rhodes: I was here with Mr. Cook multiple times past 11:15 so I don't think (inaudible).

Mr. Howard: As a rule, I would sign up to make that happen. The only caveat to that, Ms. Kirkman, is if we are going on a public issue, you know, that we may have given some leeway or may stretch it till 11:30, but I remember one meeting where Mr. Fields actually did a great job and he made it clear that by a certain time that night, because the room was packed, and by that time that night if you hadn't spoken, we're sorry. And I think if we establish that up front when we see this huge crowd that that kind of helps navigate through that. Because I think that, to your point, to be expected to stay here... seriously, Mr. Harvey was here till after 11:00 last night and he's here again.

Mr. Harvey: Mr. Chairman, Section 4-6 actually speaks to that.

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Mr. Howard: Yes, it does.

Mr. Harvey: "A motion to adjourn shall always be in order."

Mr. Howard: Okay. But you can make a motion to adjourn at a specific time.

Mr. Harvey: Yes sir.

Mr. Rhodes: And as was mentioned, I don't think we need a specific time cited because there will be different circumstances at different times which will merit some adjustment.

Mr. Howard: Absolutely. When we have public activists here who want to give us their opinion, we will certainly listen to it.

Mr. Rhodes: And we had one or two instances where we had people who sat here all dadgum night and there was just no way anybody in good conscience (inaudible).

Mr. Howard: Oh, and they should know that and I think that's the point Ms. Kirkman is making. If they know by 11:15 we're done and I'm number 35 on the list, it's 11:30 thanks, but we're going home.

Mr. Rhodes: But if they are item number 12 and we spent, for some reason, an hour and a half on item number 11 that took us to 11:30, there's no way in good conscience we would leave here with that other person who sat here waiting and thinking they were coming up just a few minutes.

Mr. Howard: I agree. Was there anything else?

Mr. Fields: It's mostly germane... I think the concept is germane in trying to prevent a group from filibustering the meeting, like happened a couple times at the Board of Supervisors.

Mr. Rhodes: I agree.

Ms. Kirkman: Well, Mr. Chair, I think it also is helpful in terms of making decisions in sort of late night fatigue.

Mr. Fields: Right, I agree.

Mr. Mitchell: Mr. Chairman, in Section 4-8 which is almost at the bottom of page 6, there is a proviso that we changed when Pete and I were on the Board of Supervisors, "except as otherwise provided in these bylaws..., the proceedings of the Commission shall be governed by Robert's Rules of Order" "(latest edition)". There are several editions over the years. If you pull up an old edition, there are changes from the newest edition.

Mr. Howard: It's funny you said that. I just read that in the by-laws adopted by the Board last night. I think that is a good change.

Mr. Mitchell: The Board changed their by-laws to read the "latest edition", so it would make us...

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Mr. Howard: You are correct; it is in the Board of Supervisors by-laws. So, under 4-8, Mr. Harvey, they have it actually in parens, “Robert’s Rules of Order (latest edition)”.

Mr. Harvey: Yes sir. Also, staff would recommend two other technical changes. Going back to Section 1-1, Title 15.1 of the Code of Virginia does not exist anymore. It is now 15.2.

Mr. Howard: We should change that.

Mr. Harvey: And then also Section 3-4; our department has changed names and my title changed a number of years ago. It is now Director of the Department of Planning and Zoning.

Mr. Howard: 3-4?

Mr. Harvey: Yes sir. Under Parliamentarian.

Mr. Howard: Okay. So, it’s not Office of Planning... what is your title?

Mr. Harvey: Director of the Department of Planning and Zoning.

Mr. Howard: Congratulations three years later. Anything else that staff saw Mr. Harvey?

Mr. Harvey: Those are the things that stuck out.

Mr. Howard: So, would anyone like to make a motion to adopt the changes as discussed? And if need be, we can go through them.

Mr. Fields: So moved.

Mr. Mitchell: Second.

Mr. Howard: Any discussion?

Mr. Fields: I think we are all pretty clear on all of that.

Mr. Rhodes: Yeah, we’re good.

Mr. Fields: Good stuff.

Mr. Howard: Okay. Mrs. Roberts, we’re about to vote. Is there any discussion that we should think about?

Mrs. Roberts: Yes, Section 7 under Amendments. It says “these bylaws may be changed by a two-thirds (2/3) vote of the entire membership after thirty (30) days prior notice”.

Ms. Kirkman: I was afraid somebody was going to notice that. So, I make a motion to suspend the by-laws, which can be done by two-thirds of the (inaudible).

Mr. Howard: So, we can have that second and then we vote, we suspend it, and then we vote on the changes and we come back.

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Ms. Kirkman: Yeah.

Mr. Howard: Does everyone understand that?

Mr. Rhodes: So, do we take the motion off the table that we had before and then act on Ms. Kirkman's motion?

Mr. Fields: I withdraw the motion.

Mr. Rhodes: And withdraw the second?

Mr. Mitchell: I withdraw the second.

Mr. Rhodes: I second Ms. Kirkman's motion.

Mr. Howard: So it's clear, the by-laws will be suspended temporarily so that we can vote on the by-laws. So, all those in favor of suspending the by-laws temporarily say aye.

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Mr. Hirons: Aye.

Mr. Fields: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye. Opposed? None opposed, the motion passes 7-0.

Mr. Fields: I reiterate my original motion to move for the by-laws as amended.

Mr. Mitchell: Second.

Mr. Howard: So now the motion on the table is to amend the by-laws as discussed and amended. All those in favor?

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Mr. Hirons: Aye.

Mr. Fields: Aye.

Ms. Kirkman: Aye.

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Mr. Mitchell: Aye.

Mr. Howard: Aye. Any opposed? The motion passes 7-0. We would need a motion to...

Mr. Fields: Unsuspend?

Mr. Howard: Come back into the rules.

Ms. Kirkman: You know, I don't know how that works.

Mr. Howard: There is a procedure.

Ms. Kirkman: I'm sure our Parliamentarian can tell us.

Mrs. Roberts: What was the question?

Ms. Kirkman: Do we need a motion to restore the by-laws? We temporarily suspended them.

Mrs. Roberts: You temporarily suspended them for that vote?

Ms. Kirkman: Yes.

Mrs. Roberts: No.

Ms. Kirkman: Mr. Chair, this is not a motion but a suggestion to staff. Perhaps they could have a notice issued, a public notice, not only for the cancelled meetings but also the change in times. The Commission is now going to meet starting at 6:30 and public presentations and public hearings will be held at 7:30.

Mr. Harvey: Yes, we will send out notice and broadcast as best we can.

Mr. Howard: Thank you, that's a great suggestion Ms. Kirkman. Thank you Mr. Harvey. Were there any other items under the Planning and Zoning...

Ms. Kirkman: Mr. Chair, I had a question for the Director. I believe the Planning Commission, by a 7-0 vote, recommended that we send something to the Board. I don't recall the exact language. They were to permanently table or to withdraw the Cluster Subdivision Ordinance and I just wanted to find out what happened with that.

Mr. Harvey: Yes, the Commission did make a motion that the Board not pursue the Cluster Subdivision Ordinance and staff will be communicating that to the Board. It's due back to them at their first meeting in February. So, we are working on a memo to send to the County Administrator.

Mr. Howard: Thank you Mr. Harvey. Was there anything else for the Planning Director's Report?

Mr. Harvey: No sir.

COUNTY ATTORNEY'S REPORT

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Mr. Howard: Mrs. Roberts, the County Attorney's Report?

Mrs. Roberts: Happy New Year!

Mr. Howard: Happy New Year. Mr. Mitchell, the Secretary's Report.

SECRETARY'S REPORT

Mr. Mitchell: Yes sir, I do. Thank you sir. I feel bad about losing my job on the Parks and Rec but I will have to live with that. I would like to comment; today I attended a meeting in Richmond. The Speaker of the House, Bill Howell, had put me on the Board of Towing and Recovery Operators. It is a seventeen member State commission. It is in the process of changing regulations, making regulations, changing training; it's a whole series of items that we're going through to make the towing industry more uniform throughout the entire Commonwealth of Virginia. These laws will affect every person who employs towing for hire in every County. Our Board is pretty far reaching in that we actually have the legal ability to suspend someone's license to tow, which could be their whole livelihood. So it has some pretty far reaching parameters. I have really enjoyed working on it. I've got a four year commitment to work on this BTRO Board and we will have a final prog hopefully by the end of this year. Like I say, there are seventeen members from all walks of life. There are towers, there are public citizens, there are police department representatives, the Superintendent of State Police is our Chairman, and we also have a member from Spotsylvania, Capt. Gill, who served in Stafford County for a number of years. I had the honor of giving him an award here in this very room. It is a very important committee. It's not flashy like a University or anything like that, but it will affect a lot of people. And if you ever get your car towed, it will affect you.

Ms. Kirkman: We'll call *you*.

Mr. Mitchell: Thank you. And also tonight I would like to congratulate our incoming Chairman. Also I would like to congratulate our outgoing Chairman. I know both of them have and will be doing a terrific job in their perspective items. And lastly I would like the Board to note that about fifteen minutes ago Ms. Kirkman made a motion, I made a second, and it went through 7-0. So, we probably won't see that again but I just wanted to mention that.

Mr. Fields: Don't say that.

Mr. Howard: We will on the Commission. Thank you Mr. Mitchell.

Mr. Rhodes: Mr. Chairman, do we need to do anything to request that some appropriate type of memento of recognition for our two outgoing Commissioners be prepared and that we set up a time to invite them back to thank them for their service?

Mr. Howard: Yes. I wanted to do that last time but we didn't. But we will do that this time. I will personally work with Mr. Harvey to work that out.

Ms. Kirkman: Mr. Chair, I would like to go further than that and I would like to make a motion that the Planning Commission recommend to the Board that they, I don't know if issue is the right word, but provide a proclamation recognizing the service of Mrs. Carlone and Mr. Di Peppe.

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Mr. Rhodes: Second

Mr. Fields: We did that last time when Mr. Pitzel and all those folks went off.

Mr. Howard: Is there a second?

Mr. Rhodes: Second.

Mr. Howard: All those in favor?

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Mr. Hirons: Aye.

Mr. Fields: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye. So, Mr. Harvey, the motion is to recommend to the Board of Supervisors to issue a proclamation on Mr. Arch Di Peppe and Mrs. Ruth Carlone for their service on the Planning Commission.

Mr. Harvey: Yes sir.

Mr. Howard: And then I'll work with you on something else. We'll bring them before us as well. They won't have to take an oath though; since we just got rid of that. In terms of any other Committee reports? I don't know if Transportation met but...

COMMITTEE REPORTS

Mr. Fields: We did. I think we're ongoing with the corridor study which I think is starting to really take shape into something. I think that will be very interesting and constructive for the County. And also, we did address the issue, Mr. Rhodes addressed earlier, of trying to provide more information that can be rolled into the Comp Plan. Because I think it was unfortunate at the public hearings because a lot of people said "well, there's no transportation plan here". Well, there is a transportation plan. It's a separate document so we want to make sure and we discussed that a little bit. So, I think at the next meeting we will try to make some sense out of these corridor studies.

CHAIRMAN'S REPORT

Mr. Howard: I don't have a Chairman's report but I will tell you that I wished that the vote was 7-0, but it was not. But I will have to work hard to make Mr. Fields and Ms. Kirkman feel that I am representing the Commission to the best of my abilities which is in alignment to their goals and values as well, not only as Commissioners, but as residents of the County. I do think the Commission made a good choice by appointing Mr. Fields as the Vice-Chair. Ms. Kirkman is correct; there might be a

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meeting or two that I'm not here and I know the Commission is in great hands with Mr. Fields leading the way with the gavel.

Mr. Fields: Thank you.

Mr. Howard: So, I have no worries or concerns at all about that. And I will work hard to earn all of your respect, not only the Planning Commissioners but certainly the staff. And I will push you a little bit harder, privately perhaps, but I don't know that because I don't know how hard Pete pushed. But we will have some discussions that I will look forward to and I'm always approachable. And if you think I'm doing something that is not right or appropriate, my leadership style is such that I am completely approachable... and, by the way, I learn every day and I can certainly become a better leader myself, not only here at the Commission but feedback is a gift and if you use it to better yourself, my experience has been you'll get better. So, that's my goal. I don't know everything but I will tell you that up front. And the things I don't know, I am certainly going to ask some questions. So, I would appreciate the help as well. With that, I think we got through the business.

Mr. Mitchell: Approval of minutes?

Mr. Howard: We're going to do that. I do want to welcome and acknowledge Holly Hazard and also Scott Hirons. I remember when I walked in here, I said... and just think about what you walked into. The first discussion was about manure. It's really unbelievable.

Mr. Fields: Welcome to the Planning Commission.

Mr. Howard: And then to heard people are actually asking detailed questions about this. But I think my first time was a subdivision and it was huge. It was like fifteen pages and it was these huge blueprints. And I remember Ms. Kirkman rattling off these things and I was like "Oh my God, this is unbelievable". But Mr. Harvey, they are required to go through training, are they not? Under the County Ordinance?

Mr. Harvey: Yes sir.

Mr. Howard: Okay. So who will work with them to help them understand how that happens.

Mr. Harvey: We will. We will get them the dates and times and when the courses are available and work with them.

Mr. Howard: But there's a lot to learn and know and you are not going to learn it in the next meeting or so. I think Mr. Fields teed it off great earlier; ask questions. The worst question is the one you don't ask. So, just ask and get clarification and you'll be fine. I appreciate you being here and I appreciate everyone's service to the County; it's commendable. Now we will move... does anyone want to make a motion to approve the minutes from October 6?

OTHER BUSINESS

APPROVAL OF MINUTES

October 6, 2009 Joint Public Hearing

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Mr. Mitchell: Motion for approval.

Mr. Fields: Second.

Mr. Howard: All those in favor?

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Mr. Hirons: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye. Opposed? Wow, 7-0.

Ms. Kirkman: No, there was one abstention.

The motion to approve the October 6, 2009 Joint Public Hearing minutes passed 6-0 with 1 abstention (Ms. Kirkman abstained).

Mr. Howard: Oh, it's an abstention. And when you abstain, for the record, you are abstaining for a reason and Ms. Kirkman's reason is, she can say it herself, but she is following the by-laws and it's required in the by-laws for thirty days. But we obviously just changed that; we have adopted new by-laws. But this still exceeds that timeframe so that is why she is abstaining. Is that correct?

Ms. Kirkman: Well, yes, and I can't, in good conscience, affirm that something is correct from so long ago.

Mr. Howard: I understand. I wanted the new members to understand what was happening. So, if there's no other business, the meeting is now adjourned.

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 10:00 p. m.

Gordon Howard, Chairman
Planning Commission